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SOME REFLECTIONS ON THE SOCIOLOGICAL CHARACTER OF POLITICAL PARTIES

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I

The political party, etymologically and logically, can embrace only a part of the citizenry, politically organized. The party is a fraction; it is *pars pro toto*. Let us endeavor briefly to analyze its causal origin and its behavior.

According to Max Weber, the political party has a dual teleology. It is a spontaneous society of propaganda and of agitation seeking to acquire power, in order to procure thereby for its active militant adherents chances, ideal and material, for the realization either of objective aims or of personal advantages, or of both. Consequently, the general orientation of the political party, whether in its personal or impersonal aspect, is that of *Machtstreben* (striving to power).[1]

In the personal aspect, parties are often based on the protection accorded inferiors by a strong man. In the Prussian diet of 1855, which was composed of a large number of political groups, each was given the name of its leader. There were the groups of Count de Schlieffen, of Count Arnim, of Tietz, of Karl, of von Patow, of von Vincke, of von Bethmann-Hollweg, of Reichensperger and Mallinkrodt (the last being Catholic). The only group which was called by its true name was a national one, the Polish party.[2] The

[1] Max Weber, *Wirtschaft und Gesellschaft. Grundriss der Sozialökonomik*, III. (2nd ed., Tübingen, 1925), pp. 167, 639.

[2] Friedrich Naumann, *Die politischen Parteien* (Berlin 1910), p. 8.

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history of the labor movement shows that the socialists have not abandoned this "bourgeois" tradition. The socialist parties, on the contrary, have often so completely identified themselves with a leader that they have more or less officially assumed his name, as though to proclaim that they were his property. In Germany, between 1863 and 1875, the rival socialist factions, courting the favor of the mass of workingmen, were the Marxists and the Lassallians. In France, more recently, the great current of socialism was divided into the Broussists, the Allemanists, the Blanquists, the Guesdists, and the Jaurèsists. It is true that the men who so gave their names to different separatist movements personified as completely as possible the ideas and the disposition with which the party was inspired, and which guided them throughout the whole course of their evolution;[3] but it must be admitted, on the other hand, that when the party assumes the name of its leader it is carrying the regard of the herd for its shepherd a bit too far. Perhaps there is here an analogy between political party and religious sects or monastic orders. Yves-Guyot justly remarked that the individual belonging to a modern party acts after the same fashion as did the mediaeval monks, who, faithful as they were to the precepts of their masters, called themselves after St. Dominicus, St. Benedictus, St. Augustinus, and St. Franciscus, respectively, the Dominicans, the Benedictines, the Augustines, and the Franciscans.[4] These are the types of party which one may designate as the parties of patronage. If the leader exercises his influence over his followers by qualities so striking that they seem to them supernatural, one can call him a charismatic chief.

This sort of party, the charismatic, takes on varying forms. Ferdinand Lassalle himself, the leader of the Lassallians, was officially merely president of the Allgemeiner Deutscher Arbeiterverein. But he was its president for life. All the main characteristics of leadership were united in him: force of will, wide knowledge, ambition and self-sufficiency, reputation for disinterestedness, celebrity, persuasive oratorship. It pleased him

[3] Maurice Charney, *Les Allemanistes* (Paris, 1912), p. 25.
[4] Yves-Guyot, *La Comédie socialiste* (Paris, 1897), p. 111.

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to encourage his followers in idolatry of which he was made the object by the delirious masses and the white-clad virgins who chanted praises to him and offered him bouquets. But not only was, in the case of Lassalle, the charismatic faith the ripe fruit of a psychology which was exuberant and megalomaniacal, but it also was in agreement with the theoretical conception of the hero. We must, he said to the workingmen of the Rhine, in offering them his ideas on the organization of the political party, out of all our scattered desires forge a hammer and place it in the hands of a man whose intelligence, character, and devotion would be to us a guaranty that with the hammer he will strike hard.[5] That is the hammer of the dictator, as he was in fact. For in later periods of history, when the masses demanded at least a simulacrum of democracy and group control in party affairs, and when especially the burning jealousy among the ever-increasing number of leaders admitted no longer, in the socialist movement, the dictatorship of one man, the striking individualities among the leaders, such as August Bebel and Jean Jaurès, were obliged to restrain, as much as possible, these desires and jealousies. Surely, Bebel and Jaurès were two quite different types of charismatic leaders. The one was an orphan of a Pomeranian sergeant, the other a university professor of southern France. The former possessed hauteur and was as imperious as his cousin, the Kaiser (whence the nickname "Kaiser Bebel" which Gustave Hervé attempted to fix upon him); the latter was an orator without peer, fiery, romantic as well as realistic, seeking to surmount difficulties by seriating problems and to resolve them as fast as they presented themselves.[6] Yet the two great leaders, at once friends and enemies, had in common an indomitable faith both in the efficacy of their action and in the historical destiny of the cohorts whose standard-bearers they were. So both became deified—the Prussian, still during his lifetime; the Frenchman, only, alas, after his death.

Moreover, the present offers to discreet sociologists another

[5] Robert Michels, *Political Parties* (London, 1917), p. 67 ff.

[6] Charles Rappoport, *Jean Jaurès: L'Homme—Le Penseur—Le Socialiste* (2nd ed., Paris, 1916), p. 366.

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example of a great leader of a party which regards him as apostle and seer. In Italy, Benito Mussolini differs from the other men whom we have just mentioned in this: he is not only the leader of a great party, he has become also the leader of a great state. With him the axiom, "The party, it is I," has assumed, not only with regard to powerfulness and consciousness, but also with regard to responsibility and assiduous labor, its maximum development. It is very interesting to see how far the masses understand and develop Mussolini's ideals even beyond his own concept. When, after having barely escaped (only some hours before) an attempt on his life, Mussolini, from the balcony of the Palazzo Chigi, harangued an agitated crowd of ten thousand people, explaining to them Italy's situation and the dangers she would have encountered if he had been killed, a voice was raised from the edge of the throng—immediately to be drowned by thunderous applause: "*Tu sei l'Italia*" ("But you are Italy itself"). With these words the interrupter meant to say (and the applauding crowd accentuated the sentiment) that there is really no difference between Mussolini the man and Italy the country, and that the death of the one would undoubtedly be followed by the complete ruin of the other. The leader of the Fascist party himself openly manifested the charismatic quintessence of his character when, after another attempt on his life, he sent a telegram to his Fascist comrades at Bologna urging them to be certain, absolutely certain, that nothing serious could happen to him before he had completed his task. We do not here have to indicate the dangers such an idea involves in politics. We shall, however, make one strictly sociological observation. It is evident that charismatic leadership like this bears within itself political dynamics of the utmost vigor. The great Saint-Simon on his death-bed told his disciples, it must be remembered, that in order to do great things one must be impassioned. But to be zealous means to have the gift of inciting the zeal of others. It is, in effect, a formidable goad. This is the advantage of charismatic parties over parties with a well-defined program and a class-interest. It is true, on the other hand, that the duration of the former is often circumscribed by the duration of their verve and enthusiasm, which

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sometimes furnish only a very fragile basis. So we see the charismatic parties induced to rest their appeal, in addition to enthusiasm, as much as possible on institutions more durable than human emotions, such, for example, as protective, workers', and professional organizations and interests.

Charism thus lends itself to all political views, no matter of what complexion. All political parties can be provided with charismatic chiefs. Particularly is this true of young, ardent, doctrinaire parties, although, to be sure, charismatic chiefs are sometimes found in parties of more flexible beliefs. In general, charismatic leaders are, as regards political parties, primary phenomena. In other words, they are the founders of them; it is they who engender and start parties. But the history of political parties demonstrates also that there is a certain number of inverse cases. Then it is the party which is the primary phenomenon. From the chronological point of view the leaders are then secondary; that is to say, they appear later, when the party is already active. But that in no way diminishes the intensity of their force, once acknowledged, provided that the pre-existing party is without other leaders of equal value.

In the second place, there are parties which have for their bases, a priori, interests of economic and social classes.[7] And these are especially workers' parties or parties of peasants or of the lower middle class—what the French call "les petites gens"—since the bourgeoisie cannot, by itself, form a party. It is necessary to add still a third category composed of political parties which have been inspired by political or moral ideas—general and abstract—of a *Weltanschauung*. When this conception rests on a more developed and minutely elaborated dogma, one can speak of doctrinaire parties whose doctrines are, however, a privilege of leaders. Here we are in the presence of parties of free trade or protection, or of those which speak of the rights of liberty or of justice (To each the fruit of his labor; or, To each according to his abilities; or, To each according to his needs), or, again, of those which speak of authority. It is, however, evident that this differentiation into parties of patronage, parties of social or economic interest, and

[7] Cf., for America, C. E. Merriam, *The American Party System*, p. 5.

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parties of doctrinaire consistency is neither sharp nor final. It is not sharp, for the simple reason that past and present parties represent, in large degree, intermediate nuances or combinations, in which the competent observer will not fail immediately to recognize the existence, sometimes in very unequal proportions, of constituent elements of all three categories. At all events, there is no doubt that the program (which is, so to speak, the codification of political beliefs that have given birth to organization) can, in the first category—based as it is entirely on the faith and authority of a single person—be rudimentary; while it is undeniable that the two other categories, and the second, perhaps, still more than the third, require well developed programs. But even for the doctrinaire parties it may be true to say, with P. Orman Ray, that the principles of a party are apt to be most conspicuous in its early or formative period, while in its later history politics are likely to overshadow principles.[8]

It seems to us, however, that there are still two categories of political parties which, while approaching in a certain sense parties based on principles, have nevertheless characteristics belonging to other types of party that distinguish them somewhat from their analogues. These are the confessional parties and the national parties. The former profess to have, not merely a *Weltanschauung* (theory of life) but an *Ueberweltanschauung* (theory of metaphysical life, a belief); they are the parties seeking to adapt the needs of life here below, envisaged as a preparatory phase, to the immortal life of the soul. The latter, the nationalist parties, may assuredly have ideas both general and universal; they may, for example, proclaim, with the Italian Irredentists, with Stanislao Mancini and Terenzio Mamiani, the principle of nationality, understood in its true sense as the right of each people, and of each fraction of a people, to complete, unconditioned sovereignty.[9] However, at least ever since 1870, the national parties practising

[8] *Introduction to Political Parties and Practical Politics* (3rd ed.), p. 5.

[9] Pasquale Stanislao Mancini, "Della nazionalità come fondamento del diritto delle genti," in *Diritto internazionale; Prelezioni* (Naples, 1873); Terenzio Mamiani, *D'un nuovo diritto europeo* (Turin, 1860); G. Carle, *Pasquale Stanislao Mancini e la teoria psicologica del sentimento nazionale. Discorso letto alla R. Accademia dei Lincei* (Rome, 1890); Luigi Palma, *Del principio di nazionalità* (Milan, 1863).

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this ideal have transformed themselves into nationalistic parties. These are, in a sense, more limited and devoid of general principles, because one cannot conceive of a general principle which stops at the frontier, or, still worse, which crosses it only to refuse to other nationalities the claims to liberty and freedom which they jealously reserve for themselves. It is, nevertheless, equally true that many other political principles in the course of time function in a manner exactly opposite to their original and general aims, e. g., the principle of freedom of thought. One can say that optimists are, in general, extremist theoreticians. The consequences of this have been well put by Georges Sorel in writing of the Jacobins: "If, unfortunately, they find themselves armed with great political power allowing them to realize an ideal that they have conceived, optimists may lead their country to worse catastrophes; they are not long in recognizing, indeed, that social transformations are not achieved with the facility they had expected; they attribute their disappointments to their contemporaries, rather than explain the march of events in terms of historic necessity; thus they end by attempting to remove those people whose evil desires seem to them dangerous to the welfare of mankind. During the Terror, the men who spilt most blood were exactly those who had the keenest desire to enable their fellow-creatures to enjoy the golden age of which they had dreamed, and who had the strongest sympathy for human misery. Optimistic, idealistic, and sensitive, as they were, these men showed themselves the more inexorable as they had a greater thirst for universal well-being."[10]

But if the unconscious identification of finalities—material or immaterial, it matters little—with the general good seems to be an absolute law of our spirit, it is none the less true that of all the social groups it is the national political party which uses and abuses this principle the most. For each nation believes that it must accomplish missions, either of liberty (the French in the Revolution), or of order (the Germans under William II), or of civilization (the "white man's burden"), or of discipline, or of

[10] Georges Sorel, Lettre à M. Daniel Halévy, dans *Le Mouvement Socialiste*, 9ème année no. 189, tome 190, 16 août et 15 septembre, 1907, pp. 142–143.

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morality, or of other ideals. All of these concur in endowing them with presumptive rights over neighboring peoples, who are judged incapable of facing their jobs without being forced to obey orders issued by the missionary people. The good faith, which very often springs from this idea of a mission, communicating itself to national collectivities, gives them the aplomb and energy of which they have need in order to achieve their goals. This is as much as to say that those critics who estimate that in their aggressive actions national groups are fundamentally ferocious and savage are profoundly wrong. At bottom, this ferocity and savagery which cause people to trample under foot and wipe out the interests and aspirations of others are only the forms in which the missionary—and almost always the visionary—conviction manifests itself. Missionary peoples are ferocious and savage not in their feelings but in their actions.

II

However, as I have attempted to prove in one of my books,[11] the need for organization (what Americans call machinery) and the ineluctable tendencies of human psychology, individual and group, cause distinctions of origin in the main to disappear. The political party as such has its own peculiar soul, independent of the programs and rules which it possesses and the eternal principles with which it is embued. The psychology of the crowd is fairly the same in the socialists and the nationalists, in the liberals and the conservatives. In group movements, with rare exceptions everything proceeds naturally, and not "artificially." The fact that the people follow their leader is quite a natural phenomenon. "To use the term exactly," Rousseau has said, "there has never existed a true democracy, and none can ever exist. It is against natural order that the great number should govern and that the few should be governed."[12] Our consistent knowledge of the political life of the principal civilized nations of the world authorizes us to assert that the tendency toward oligarchy constitutes one of the historic necessities, one of the iron laws of

[11] *Political Parties* (New York, 1915, and London, 1917).
[12] Jean-Jacques Rousseau, *Contrat Social.*

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history, from which the most democratic modern societies and, within those societies, the most advanced parties, have been unable to escape.[13] By giving themselves leaders, the workers create with their own hands new masters, whose principal means of domination consists in their technical and intellectual superiority and in the inability of the masses to control the execution of their commands to the leaders. In this respect, the intellectual has played a rôle in party politics which has many times been the subject of profound study. Moreover, the mechanism of the socialist party offers to the workers, thanks to the numerous salaried and honorary positions of which it disposes, a possibility of making a career, which exercises on them a force of considerable attraction. Now, to the degree that the political calling becomes complicated and the rules of social legislation multiplied, there is imposed on the leaders of political parties an existence more and more professionalized, based on a continuously widening knowledge, savoir-faire, routine, and sometimes delicate finesse. This is why the distance between the leaders and the led grows constantly greater. Thus one can place one's finger upon the flagrant contradiction which exists, in mature parties, between democratic declarations and intentions, on the one hand, and the concrete oligarchic reality, on the other. Hence the continuous raising of conflicts, often Shakespearian in character, in which the comic borders upon the tragic. It may, therefore, be said that the organization constitutes precisely the source whence conservative currents debouch upon the plain of democracy, causing devastating innundations which render that plain unrecognizable.

Such a *Götterdämmerung* can in no way surprise analytic and alert spirits. Long ago Adam Smith's teacher, the Scottish philosopher Hutcheson, remarked that the patience of the people has always been too great and its veneration for its leaders too inept.[14] Furthermore, for Pareto, the contemporary era is in no way characterized by the augmentation of sociality and the diminution of individualism. Fundamentally, it can be only a

[13] Cf. Robert Michels, in the *Verhandlungen des Kongresses des deutschen Institutes für Soziologie*, Vienna, September 27, 1926 (Tübingen, 1927).

[14] *Philosophiae moralis institutio compendiaria* (Glasgow, 1742), Bk III, Chap. viii.

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question of a quadrille chassé-croisé. For example, the sentiment of subordination, which was manifested in former days by the subjection, more or less voluntary, of inferior classes to superior classes, has today merely been replaced by the submission of the inferior classes to the leader of their party, the syndicate and the strike, and by the submission, less apparent, of the superior classes to the scum of the people, who have never been the object of so much flattery as in the present.[15] And Gabriel Tarde has referred to two correlative sentiments of modern times, namely, the morbid mistrust of the democratic public for its master, and the fear, the malice, the insipidity of the so-called master who submits to all the orders of his inferiors.[16] Naturally, experience informs us that the sycophant and demogogic chief himself considers flattery merely as a means, his aim being always that of dominating the crowd. The democracy clings to the lofty rungs of the orator's ladder, Charles Maurras has said, just like a woman—for the mob is feminine—whose imagination greets with transport the element which is able to excite her.[17] And Thomas Carlyle well stated before him: "No British man can attain to be a statesman or chief of workers till he has first proved himself a chief of talkers."[18]

III

Democracy is of a massive nature. Therefore it cannot function without masses. Parliamentarism presupposes electionism, electionism implies electoral masses.[19] It follows from this that political parties are in vain partly aristocratic in origin and in aim; for it is none the less true that they are forced to make use of the masses. At election time, the *aristoi* candidates deign to descend from their mansions and to bestir themselves among the yokels in order to obtain the majority in their districts.[20] That is not

[15] Vilfredo Pareto, *Trattato di Sociologia generale* (Florence, 1916), Vol. II, p. 248.

[16] *La logique sociale* (Paris), p. 297.

[17] "Une campagne royaliste," *Figaro*, Aug., 1901–Jan. 1902, p. 32.

[18] *Latter Day Pamphlets*, No. 5: *Stump Orator*, p. 167 (Works of Thomas Carlyle, Standard Edition, Vol. III, London, 1906).

[19] Michels, "Psychologie der antikapitalistischen Massenbewegung," *Grundriss der Sozialökonomik*, Vol. IX, No. 1 (1926), p. 326.

[20] Friedrich Naumann, *Demokratie und Kaisertum* (Berlin, 1904), p. 92.

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astonishing. They are not indeed ridiculous enough to speak in these solemn and decisive moments for the privilege of minorities, and to restrict themselves to accepting exclusively the votes of that portion of their fellow-men who are sole possessors of the governing vocation. Inasmuch as they must rely upon the medium of election, the aristocratic parties make the best of a bad job. After all, the aristocrats cling to the hope of persuading the masses indirectly to renounce their own rights by their own votes. It is, at bottom, the ideal of the Prussian junkers and the French aristocrats, who, to democratize themselves, discard the cast-off garments of royalty. Moreover, parties of huge economic and social classes or interests also follow this method of camouflage very closely. The majority parties also take care, in political elections, to address themselves not alone to their associates. In democracy every one appeals to the people, to every one of the people, without discrimination. The socialist party—the most strictly proletarian—does not hesitate to solicit openly, at the proper time, the suffrage of artisans, peasants, and petty bourgeoisie. A socialist who before the elections, and afterwards, has only a very narrow conception of what is meant by the working-class, loves, during the campaign, to stretch the theoretical extent of this class to the point of including capitalists, providing, of course, that they are not too refractory to accord to their employees, in such a case, some small wage increment.

This tendency, immanent in contemporary political life, and which a wag would be tempted to denominate a game of hide-and-seek, manifests itself even in the names that political parties are accustomed to give themselves in democratic countries. Indeed, in a democracy, political parties tend to envelop themselves in a very thick terminological fog, and one of nearly even color. Here are a few modern political nomenclatures. In France, the Liberal Action, the Progressive Republicans, the Republican Union, the Democratic Left, the Radical Left, the Radical-Socialist Republicans, the Socialist Republicans.[21] In Germany, the German Popular party, the German People's National party, the German People's party, the Democratic party, the Social Democratic

[21] Robert de Jouvenel, *La République des Camarades* (Paris, 1924), p. 69.

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party, and the Christian People's party. In Switzerland the names of political parties differ scarcely at all from those used among their larger neighbors. One would say that no party is distinguishable from the others. All the German and French parties are more or less equally "popular," "democratic," and "national." This tendency is a beautiful example, indeed, of the application of Darwin's law of adaptation to environment carried over into the political field. It is almost cryptic mimicry. In the French elections of 1848 the candidates of almost all shades of political opinion liked to call themselves workers and socialists, in homage to the first universal suffrage.[22] Nowadays they are all democratic.

The influence which the omnibus tendency exerts on political parties is also very distinctly apparent in the tactics of the confessional parties. Let us remember, for example, that in the most important countries of Europe, where there is a Catholic party it has the habit of carefully concealing its essential character by the designations it uses. None ventures to call itself Catholic. In Italy, the Catholic party calls itself, quite simply, "Popular"; in Germany, it becomes the "Center party." But further: the latter party offers strong inducements to have among its members, even among its official representatives, a certain number of Protestants.[23] In Italy, at the Congress held by the Catholic party at Easter, 1923, in Turin, Don Sturzo, under the pretext that a party truly Catholic is a *contradictio in adjecto* (the word Catholic signifying universal, and the word party signifying partial), advanced the thesis that his party should be strongly non-confessional.[24] This omnibus tendency has penetrated even into parliament. If this needs demonstration, it will suffice to cite, in France, the paradoxical existence in the Palais Bourbon, in addition to the politically constituted groups, of a "group of deputies not enrolled in any group," which includes men of every shade of opinion, and which even names a bureau.[25]

[22] Daniel Stern (Comtesse d'Agoult), *Histoire de la Révolution de 1848* (Paris, 1887), Vol. II, p. 318.

[23] Martin Spahn, *Das deutsche Zentrum* (Mayence), pp. 62–63.

[24] *Giornale d'Italia*, April 13, 1923.

[25] De Jouvenel, p. 66.

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There is, of course, among political parties a differentiating tendency, which we shall designate a centrifugal tendency, by which they are induced to distinguish themselves one from another, whether in their program and theoretical basis or in their daily manifestation. Moreover, this tendency seems to be repressed and often diverted by a much stronger tendency inherent in all political parties. This is the integrative tendency of the numerical maximum, mortal enemy to all freedom of program and of thought. It is a centripetal tendency, and, in fact, only the logical consequence of the fundamental tendency that dominates the life of political parties, namely, the tendency toward the conquest of the state. Where there are only two parties, as in America, this system is already the extreme expression of the victory of the centripetal tendency over the centrifugal. This victory seems still more manifest considering the fact that the Democrats and the Republicans are at present almost devoid of theoretical or programmatical differences, so that they can both address themselves to the electorate without any "ballast" of differentiating ideas.

IV

In truth, the *raison d'être* of the political party is the push for power. Here the objectives certainly differ, some wishing to reach their goal in a peaceful fashion, without agitation (evolutionary as it were); others, believing that by evolutionary methods they may never attain their ends, prefer an action or a series of actions more vigorous and rapid, by tactics called revolutionary. And it is likewise obvious that the conceptions of political parties are no more identical in the action to be taken after success—action which will depend, at least in principle, on conceptions which they have formed of the rôle of the state, and which may, in theory, even contemplate its abolition. For to destroy, it is necessary first to capture. At any rate, the first stage of the political party is determined by its ardent desire to absorb power, to become the state. Also the final goal of the party consists in statization. This is why, while awaiting utopia, the party will try to establish at the outset as much as possible a little state within the state. One

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may thus sustain the thesis that the most accomplished political party will be that one which will have created in its own ranks all the organizing and intellectual details of a nature to make it capable some day to assume the functions of the state, in complete form, just as Minerva issued fully armed from the brain of Jupiter.

It will be worth while to deal briefly with Vilfredo Pareto's theory of political parties. Like Max Weber, the author of these lines, and others, Pareto begins with the premise that political parties seek power. He then divides parties into two essential groups. First, there are the parties which devote themselves to government. This group embraces alike the party in power and those that do not hold it but aspire to it with good chance, and that meanwhile form the parties of opposition. Second, there are the intransigent parties which would hardly attain power. These last contain a greater number of fanatics, but also of honest men, than the other parties which are less ferocious but likewise more depraved.[26] Let us note in passing that, according to an axiom of Italian juridical sociology, it is not a universal supposition that a government is composed of honest men. An eminent Italian sociologist, Gaetano Mosca, considers it even difficult for an honest man, having achieved the realization of his political ambitions, to resist deterioration of his moral sense, and seems to prefer the honest man remaining and acting outside of the government, though capable of influencing public opinion.[27]

We should not dare to say, however, that the differentiation of Pareto is impeccable. In the first place, his point of view is, in my opinion, erroneous. To divide political parties into those that have "arrived" and those that have not or do not wish to do so, is to set up chance as a criterion, unless one considers that there be political parties which have amused themselves in being intransigent out of pure whimsy, which is inadmissible. For if there are parties that, at a given moment, refuse to take office, even when it is offered to them like a ripe fruit, this refusal does not signify a renunciation forever—a thing which would be for

[26] Pareto, Vol. II, p. 638.
[27] *Elementi di scienza politica* (Turin, 1923), p. 462

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them equivalent to suicide. The refusal, on the contrary, is inspired in these cases by the fear either of not yet being ready to assume with impunity the responsibilities of government, or of being uncertain of the obedience of their adherents, divided by differences of opinion on the tactics to be followed; or, again, because they fear accepting but a Trojan horse and falling into an ambush or a trap which their enemies have laid for them. It is certain that such refusals (recent examples have been furnished by the Italian and French socialist parties) may be judged in a very different manner, as approaching a "policy of missed occasions and of tardy repentance." Whatever it be, these refusals to assume power have, as we have seen, an accidental and casuistical political causation, and always imply the party's hope of being able at an early maturity to redeem the mortgage on government and to conquer the state under political constellations more lucky and more promising.

In the second place, by identifying the party "arrived" and the party transigent, Pareto implies a relation between conquest of power and political compromise which certainly can often be verified, but which, nevertheless, is very far from forming a sovereign law capable of comprehending the extremely varied history of modern political parties.

Here, still another question arises. May one, perhaps, distinguish political parties according to whether their aspirations are fixed in past history or in political progressivism? Are there not, indeed, retrogressive and reactionary parties and progressive parties? There resides in this nomenclature a modicum of truth. One can undoubtedly discern parties tending toward a reëstablishment of political and social institutions which have existed and which are judged superior and more suitable than the state of things which has replaced them. Parenthetically, we may add that, pursuant to this uniquely historical criterion of time—which involves neither the idea of liberty, nor that of authority, nor yet that of any other principle of political or philosophic order—one should logically designate as retrogressive, for example, the anti-bolshevist parties in Russia, as well as the liberal anti-fascist parties in Italy, the monarchist parties of France and Germany,

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and the irredentist parties in the countries detached from their fatherlands. Of course, this criterion gives us a most incongruous collection of political organizations in which are found joined together mortal enemies bound to one another by but a single tie: their common aspiration toward a preëxisting state of things, whatever it may have been. On the other hand, there is a group of political parties certainly no less incongruous than the collection we have just examined. These are the progressive parties, envisaging a new state of things which has never existed in history, but which they deem possible, desirable, and practicable. The prototypes of these parties are the socialist parties in central and western Europe.

It would, however, not be exact to classify political parties in two categories, those of the past and those of the future. This is true, in the first place, because whoever dares to range himself along with partisans of Giambattista Vico's philosophy of history —the kernel of which consists in the theory of *corsi e ricorsi*— would not at all doubt the thesis that the present is merely a contradictory parenthesis between the past and the future, with the result that the future often possesses a greater affinity with the past than it does with the present. In the next place, one lacks the historic sense if one supposes it possible completely to restore the past. Epochs of history do not lend themselves to photographic reproduction. In the process, something has been altered, some one has moved, as regards congruity of situation and agreement of will. This is why parties of the past should not imagine themselves able to reëstablish the *tempora acta* as they were. The future must perforce be influenced by the durable changes which have been produced, the "reactionary" party must take account, not only of the real advantages evolved by the disliked present order which it is trying to eliminate, but also of the new fundamental interests which this régime has created. Let us cite two examples. In France, the defeat of the great Revolution and of the fulfillment (though incomplete) which it found in Napoleon I, even while involving the return of the Bourbons and the so-called Restoration, did not—despite the promises of indemnity made to the émigrés—at all restore the

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old great landed estates. The reaction interfered but slightly with the new peasant class, which, through *fas aut nefas*, had been called into being by means of the redistribution of confiscated property of the aristocrats. Although it is somewhat undesirable, and indeed hazardous, to predict a future enveloped in the mists of the unknown, it seems clear that the fall of bolshevism, uncertain though it be, will end in enormous transformations within the legal and economic constitution of Russia, but will leave intact the new forms of small agrarian property which, at the expense of the nobility, have replaced the *latifundia*.

A word more on the question, terminological in the extreme, of parties called revolutionary. Too often is assigned to the term "revolutionary" special historical significance derived from the memory men preserve of the great French Revolution, which is generally considered the prototype of revolutions. It follows that one attaches the word only to the struggles for liberty undertaken by inferior social classes against their superiors; and in addition to this, the popular interpretation of the term involves the existence of violence and blood-letting; whereas, from the purely logical point of view, the word implies only a fundamental change of a legal order, no matter what means are employed to consummate it. Hence one can sustain the thesis that the terms "revolution" and "counter-revolution" are, after all, equivalent. There is only a moral difference between them, and this difference is merely subjective. In 1831, a Prussian historian, Friedrich von Raumer, wrote from Paris these sensible words: "For liberals, the word 'revolutionary' signifies the suppression of a decrepit and obsolete social order, pernicious and ignominious; while 'counter-revolution' is in their eyes equivalent to a leaning toward injustice and an outworn order. On the contrary, their opponents, the conservatives, understand by the word 'revolution' the aggregate of all follies and delinquencies; while the word 'counter-revolution' is for them a synonym for order, authority, and religion.[28] It is, then, a question of words that express only sentiments and evaluations, perhaps quite appreciable but entirely personal and

[28] Friedrich von Raumer, *Briefe aus Paris und Frankreich im Jahre 1830* (Leipzig, 1831), p. 26.

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arbitrary. Political science should not countenance such kinds of terminology.

Certainly what may appear to some the debâcle of democracy and a sad, nearly irremediable, lesion of its eternal principles can seem to others the confirmation of a salutary law. This law prescribes that men, in every enterprise requiring collective action, must submit their particular movements to the rule of the single will of a leader, and that, of the two possible attitudes, loyalty and mistrust, to be assumed toward that leader—to whom democracies must have recourse—the former is the only one that is constructive and generous.[29]

Since the World War, two new parties, inspired by the ideas of Auguste Blanqui on minorities, and still more by the severe and diversified conceptions of the French syndicalist movement under the spiritual direction of Georges Sorel (Pareto's friend), have arisen. These parties have a new basis, that of the *élite*.[30] Both consequently find themselves in deep-seated contrast with the current democratic and electionist theories. In Russia, bolshevism, while seizing the central power with an unheard of violence, has imposed on the majority of the population the domination of a proletarian minority. In Italy, fascism, gifted with the same *élan vital*, snatched the power from weak hands and called to itself, in the name of the country, the minority of active and energetic men who are always to be found.

Moreover, the anti-democratic and theoretically minority élite is rather unable to set completely aside the principle of the masses. For more than a century, liberalism, democracy, and socialism have daily addressed themselves to all classes of the people equally. Let us add to this the method of modern patriotism, which we know to be of a revolutionary nature both by its origin and by its tactics, and which has never ceased to attract to it or to try to fascinate the very last molecule of the national community. Indeed, on the eve of the revolution, France

[29] André Maurois, *Dialogues sur le commandement* (Paris, 1925), p. 170.

[30] The rise and development of the *élite* receives chief attention in my course given in the department of political science in the University of Rome and published in 1926 under the title *Corso d'Sociologia Politica* (Milan, De Marsico).

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was (or seemed to the democrats to be) merely an assemblage of people badly united, in part strangers to one another. In spite of a constant tendency toward unity, this France of the *ancien régime* appeared to exhibit only diversity, disorder, heterogeneity; to contemporaries it offered the aspect of chaos. France was united neither in civil legislation (which included more than three hundred local systems of law, often contradictory), nor in administration, nor in judicature, nor in military arrangements, nor in communal life, nor in anything at all. Also, in order to voice in this disunited country the sentiment of *la patrie moderne*, one must give to the whole of France, urban and rural, leave to speak.[31] Heaven knows how much she made use of it in the cahiers of 1789.

Now, with the awakening of the laboring and peasant masses which followed thereupon for nearly a century and a half, the phenomenology of the facts which unroll continually before our eyes demonstrates that today the *élite* is no longer able to maintain its power without the explicit or tacit consent of the masses upon which it in numerous ways depends. There is, then, between the party, monopolistic and so far master of the state as to be confounded with it, on the one hand, and the masses, deprived of so-called political rights, on the other, a social constraint at all points reciprocal. So, at least in Italy, the party of the *élite*, the Fascists, could but solicit, secure, and conserve the sympathy of the masses. In pursuing this end, the Fascist party was also led by political necessity, i. e., the need of proving to the neighboring states—all more or less imbued with democratic and majority ideas—that, although theoretically a minority, it fully represents the authentic and autochthonous popular will. From this results the adoption of the consensual theory which rests (more than upon the popular vote) upon a public opinion mensurable less by the liberty of the press than by the number of adherents and political and economico-social organizations. It is to some extent popular enthusiasm which serves the parties of the *élite* as justification of their acquired rights. In relying upon it the party of the *élite* loses very little of its theoretical purity, because an *élite*,

[31] A. Aulard, *Le patriotisme française de la Renaissance à la Revolution* (Paris 1921), pp. 93, 85.

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theoretically sure as it is both of its calling and its power, will, by definition, be self-sufficient; there is no need for the *élite* to have the majority in agreement with it.

And this is truly the antinomy of anti-democracy, and antinomy not necessarily tragic but dangerous, consisting in a dilemma that appears in a form which one might liken to that of an accordeon. For the parties of the *élite* describe, in their applied political life, a perpetual oscillatory movement, stimulated alternately by fortuities, such as the suitability of the situation, and still more by the two inherent tendencies, that is, by their doctrinaire stereotypes and by their political interests. Indeed, the parties of the *élite*, turn by turn, swell their structures excessively up to the point of embracing nearly the whole nation and boast of their millions of political and syndical assessed members, and then suddenly contract their frames by expelling the excess, attempting to become again minority parties, properly so called, namely, the parties of election and of choice, sometimes even in proportion to a *numerus clausus*. Between these two extreme limits, the one signalized by the indispensability of the authority of numbers, and the other fixed by the principle of homogeneity and of the strength which flows therefrom, the pendulum oscillates unceasingly.

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POLITICAL SCIENCE AT THE CROSSROADS

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Political science is at the parting of the ways. Its foundations have been undermined by the claims of law and jurisprudence, into whose hands it has been deliberately surrendering itself for the past half-century or more, and now its chief strongholds are under fire from the neighboring fields of sociology, economics, and ethics. So severe and so persistent have these attacks become that the time has arrived when the political scientist must decide whether he will allow his subject to be absorbed in any one or all of these various fields, or will attempt to reëstablish it as a distinctive discipline.

The reasons for this state of things are not difficult to discover. They quite obviously lie in the fact that in the pursuit of their basic problem—the search, namely, for the nature and source of sovereignty—political philosophers have so generally followed two equally futile and fruitless paths: either the path of pure speculation leading to a supernatural or metaphysical theory, or the path of legal analysis, leading ultimately to the juristic theory of the state. Indeed, during these recent years political theory has been so increasingly "under bondage to the lawyers"[1] that it is little wonder that a reaction has come, and that thinkers in their determination to find the reality behind the formal juristic conception, are now repudiating not only the legal, but even the political, character of the state.

The complete history of the juristic theory of the state remains to be written. Its relation on the one hand, however, with the earlier attempts to fix sovereignty in a particular element of the state—the so-called "state-organ theories"—and, on the other, with the Austinian doctrine, is sufficiently clear. All of these preceding theories involved, moreover, in their turn, strictly legalistic conceptions, according to which sovereignty was simply a "legal independence free from all external control and a legal

[1] Charles A. Beard, "Political Science in the Crucible," *New Republic*, XIII, pt. II, p. 3.

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supremacy over all internal affairs."[2] It was, also, in large part the failure of these attempts to locate sovereignty in the state that led to the juristic theory proper—to the concept, that is, of the state as a juristic person and of sovereignty as inhering in the personality of the state as a whole.[3]

Austin did not himself attribute legal personality to the state; but his followers of the analytical school, who carried his theory to its later development, made the state's personality the corner-stone of their doctrine. The juristic theory envisages the state, as did Austin, "simply as an instrumentality for the creation and enforcement of law;"[4] but it goes much further than this, and in the words of its most conspicuous American exponent, conceives "a politically organized group of individuals as constituting an essential entity . . . . which may be regarded as a person in the legal sense of the word; that is, as a being, existing in idea, possessing legal rights and obligations as distinguished from those of the individuals who concretely viewed make up its body-politic and . . . . through organs of its own creation capable of formulating and uttering a legal will with reference to matters within the jurisdiction conceded to it. . . . . Regarded as a legal person the prime characteristic of the state is that there is posited of it a will that is legally supreme . . . . [which] supreme legally legitimizing will is termed sovereignty."[5] "It will be seen," says Professor Willoughby further, "that analytical political theory is not curious regarding the historical origin of political authority among men; . . . . it takes political institutions as it finds them, and views them in a single aspect, namely, as legal institutions. Its task is not to seek substantive truth, but to provide conceptions and to furnish an apparatus of thought by the employment of which public law thinking may be systematized and its various propositions brought into legal harmony with each other."[6] And he needs hardly to have added, "It will thus

[2] H. Krabbe, *The Modern Idea of the State*, translated by Sabine and Shepard. Translators' Introduction, p. xviii.

[3] *Ibid.* Translators' Introduction, pp. xxvii sq.

[4] W. W. Willoughby, "The Juristic Conception of the State," *American Political Science Review*, XII, 192 (May, 1918).

[5] *Ibid.*, p. 194. [6] *Ibid.*, p. 193.

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be seen that analytical political theory is a purely formalistic inquiry."[7]

The extent of the reaction against this extreme formalism, and against the air of abstraction and unreality that it has cast about the state is evident on every side. Ten years ago Dr. Beard described political science as "a science of the law and its judicial glosses, resting on no sociological foundations but . . . . hanging in the vacuum of closed legal speculation."[8] Mr. Cole refers to the juristic conception of the state as that of "a single unique entity existing alone in a circumambient void;"[9] and Professor Elliott characterizes its conception of sovereignty as the "hypostatization of an ideal."[10] "The two basic ideas" [of the theory of the Revolution], says Duguit, "the sovereignty of the state and the natural right of the individual, are already dead. We see now that both of them are merely abstract conceptions useless for any juristic system that is to be truly scientific."[11] And to these statements may be added those with which Professor Coker prefaces his recent chapter on this subject;[12] Lindsay's statement that "if we look at the facts it is clear enough that the theory of the sovereign state has broken down;" Barker's, that "no political commonplace has become more arid and unfruitful than the doctrine of the sovereign state;" and Krabbe's that "the notion of sovereignty must be expunged from political theory."

Closely connected with the abstract formalism of the juristic theory its critics find two other difficulties that add impetus to their attack. They point, in the first place, to the fact that in spite of the claim made for the legal supremacy of sovereignty there are many practical situations in which the law on the statute books is in reality disobeyed, and in the second place to the logical

[7] *Ibid.*, p. 193.

[8] Beard, *op. cit.*, p. 3.

[9] G. D. H. Cole, *Social Theory*, p. 81.

[10] W. Y. Elliott, "Sovereign State or Sovereign Group?," *American Political Science Review*, XIX, p. 476 (August, 1925).

[11] L. Duguit, *Law in the Modern State*, translated by Frida and Harold Laski. Author's Introduction, p. XLI.

[12] *Political Theories, Recent Times*, ed. by C. E. Merriam and H. E. Barnes, p. 80.

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dilemma in which one is inevitably landed by the juristic theory—the dilemma, that is, whereby the state, which, according to this theory, is the source of law, is at the same time itself a legal entity according to the definition; the "circulus vitiosus" so clearly set forth by Krabbe in his "Lehre der Rechtssouveränität."[13] Can, in other words, a legal entity itself be the source of law? If law proceeds from it, whence its own legal nature?

These causes for the reaction against the juristic theory are very largely inherent in the theory itself. There is, however, another cause quite as potent which finds its origin outside that theory, but which is at the same time rendered stronger by the particular nature of the inherent causes. This consists in what has been termed the "triumph of the sociological movement."[14] "The so-called social hypothesis," says Professor Barnes, "has now won well nigh universal triumph. Society appears as the general matrix out of which the state evolves as a specialized organ or agency.[15] . . . . The sovereignty of the state is in no sense a sanctified metaphysical power, it is simply social pressure exercised through particular channels in support of existing political institutions.[16] . . . . Its alleged qualities of originality, universality, absoluteness and lack of finite limitations have long since been dissolved under criticism, and now even its quality of unity is challenged. Still others doubt its essential reality: . . . . whether any determinate political superior can be identified in the mazes and fluctuations of social pressure. In short, the whole problem of sovereignty is one for broad sociological and psychological analysis and not for microscopic examination by lawyers."[17] "What sociology has done for political science is . . . . to put the lawyers of the metaphysical and the 'mechanical school' to rout."[18]

Of the leaders of the sociological attack, space permits me to refer here only to Duguit, Krabbe, and Laski, who are, however,

[13] H. Krabbe, *Die Lehre der Rechtssouveränität*, p. 77.
[14] H. E. Barnes, *Sociology and Political Theory*, p. 13.
[15] *Ibid.*, p. 3.
[16] *Ibid.*, p. 5.
[17] *Ibid.*, p. 5.
[18] *Ibid.*, p. 12.

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typical of many others. Duguit, as is well known, takes as the keynote of his opposition to the juristic theory the distinction that he draws between the state and law. He accepts the state as a fact, and defines it as a community in which certain individuals, because of some sort of superiority—that of wealth or numbers or personal qualities, mental or physical—rule others by imposing physical penalties, or, as he says, by force and fear. As such a community, however, the state, he declares, has no personality, which he designates simply as a metaphysical conception, nor does any legal or moral validity adhere to its "power of compulsion," which he says has traditionally though wrongly been called sovereignty, whereas in reality it is simply the "ability to act." True sovereignty, and, therefore, true legal as well as moral validity, is to be found, on the other hand, in what Duguit calls the "principles of social solidarity"—the "rules of conduct [that are] binding upon men who live in society," "the rules of conduct that must be obeyed in order to preserve and promote the benefits which society confers"[19]—which, he holds, constitute an objective law anterior to and superior to the state. To this law of social solidarity Duguit attributes, as has been pointed out, binding or normative character; in it, according to his interpretation, sovereignty lies. Yet in spite of this fact, in his ultimate analysis he finds himself obliged to acknowledge that most of the legal rules actually in force in society are what he calls technical rules made by legislatures and judges as representatives of the force of the state.

Krabbe's protest presents many points of similarity with that of Duguit. It, too, is aimed at what he calls the "traditional" theory of sovereignty and the state, especially as formulated by German political science, the theory, that is, he says, of the state as "the original manifestation of power endowed by its very nature with the 'right of rulership,'[20] and of sovereignty as simply the will of the sovereign," and also and more particularly is it aimed at the theory of the legal state, in so far as that theory finds sovereignty in a will behind the law. He acknowledges the

[19] *Political Theories, Recent Times*, p. 100.
[20] Krabbe, *The Modern Idea of the State*, p. 1.

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state to be a "legal community;" but for him a legal community is one whose "sole function consists in defining the legal value of public and private interests,"[21] and law is for him "not the command of a sovereign but the totality of rules, general or special, written or unwritten, which spring from men's feeling or sense of right,"[22] from which it also derives its sanction. "Not the will of a sovereign," he declares, "who exists only in the imagination, but the legal conviction of the people, lends binding force to positive law."[23]

In thus placing the binding force of law in the sense of right inherent in man, Krabbe would divorce law as such from all connection equally with will and with compulsion. Yet in spite of this he does acknowledge, with Duguit, that force has played a part in shaping social life. "Law," he says, "has frequently been developed by the use of force and authority and still develops in this way."[24] "In so far as individual modes of conduct are contrary to the rules of the community, and thus tend to undermine the authority of these rules, it becomes necessary to curb anti-social impulses and thus to strengthen the authority of the communal order. . . . . Punishments and judicial executions have been from antiquity the means of attaining this end—the means which the legal system itself has possessed of strengthening its authority and of imbuing the individual mind with the necessity of communal life in so far as the sense of right did not suffice to bring every individual to an observance of the rules of the community."[25] This comes very close, it will be noted, to a complete admission of that which Krabbe is aiming to refute; since it is only against the recalcitrant that compulsion ever needs to be exerted, and since if the sense of right were in reality normative, as he says it is, there would be no recalcitrant. In the end, however, in order, as it appears, to save himself from the damaging effect of such an admission he is at pains to assert

[21] Krabbe, *The Modern Idea of the State*, p. 213.
[22] *Ibid.*, p. 39.
[23] *Ibid.*, p. 7.
[24] *Ibid.*, p. 66.
[25] *Ibid.*, p. 115.

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that although "constraint is justified by the necessity of maintaining the law, ... it can never bestow legal validity upon a rule which lacks it."[26] "Nothing," he declares, "is law except what proceeds from the ultimate sense of right. What does not come from this source may be enforced by the power of the state, or may be applied in decisions of the bench; but it is not and never can be law."[27] He denies also to the system of compulsion an independent existence, and finds in it only one public service not essentially different from others. "We know," he says, "that this implies no special kind of authority and that accordingly no sovereign authority needs to be imagined. . . . ."[28]

The similarity between Krabbe's sense of right and Duguit's social solidarity is evident; for although to Duguit the law of social solidarity is objective to the state, while to Krabbe the authority inherent in the state and the authority of the law are identical, the basis of rulership in the state being coincident with the binding force of the law, still they both alike find the reality of the state and of law in certain conditions of social life and consciousness rather than in the legal formula itself.

Of Mr. Laski's position only a few words can be said. Having in his previous books consistently attempted to tear down the juristic theory in all its phases without putting anything very positive in its place, he at last in his "Grammar of Politics" attempts, as he says, "to construct a theory of the place of the state in the Great Society."[29] He does this mainly by developing a theory of the law, according to which he finds in law the expression of what are held to be "the necessary social relations of a state at some given period."[30] "It is necessary to remember," he says, "that unlimited power is nowhere existent, attention has always to be paid to the thousand varying influences which go to shape the nature of the sovereign will."[31] "Law for the

[26] Krabbe, *The Modern Idea of the State*, p. 48.
[27] *Ibid.*, p. 110.
[28] *Ibid.*, p. 124.
[29] H. J. Laski, *A Grammar of Politics*, p. 9.
[30] *Ibid.*, p. 55.
[31] *Ibid.*, pp. 55–56.

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student of politics is built upon the general social environment."[32] Thus does Mr. Laski also arrive at the social basis of sovereignty. However, he gives us no clue as to what these "thousand varying influences" are, but proceeds, instead, to discuss the moral validity of state power, and to find it in the maintenance of an environment in which, at least potentially, the individuals in the community may hope to realize the best of themselves."[33] In so doing he interestingly enough makes much the same sort of admission with regard to forceful sanction as we have seen both Duguit and Krabbe make. "Every government," he says, "is thus built upon a contingent moral obligation. Its actions are right to the degree that they maintain rights. . . . . A given right may be refused recognition. A government may either honestly or dishonestly doubt its wisdom and refuse it statutory form; and since any normal government is likely to dispose of the greatest amount of available force it will probably be able, except in the event of successful revolution, to maintain its refusal. That does not give its action validity. It means only that the preponderating material force of the community refuses to exercise its proper functions."[34] And earlier in the book we read, "at some point . . . . spontaneity ceases to be practical, and the enforced acceptance of a common way of action becomes the necessary condition of a corporate civilization."[35]

The common purpose of all the sociological attacks on the juristic theory is, of course, to show the inadequacy of the legal formula and to get at the social and ethical realities underneath. Yet in the various criticisms as quoted another very striking common characteristic appears—in the fact, namely, that while all three of the authors cited claim to have discovered in one form or another a purely social or ethical basis for sovereignty and the state, each one of them does in truth recognize the use of coërcive force and admit its necessity for the accomplishment of the ends of the law. It is to these admissions that I wish to call

[32] Laski, *A Grammer of Politics*, p. 55.
[33] *Ibid.*, p. 57.
[34] *Ibid.*, p. 57.
[35] *Ibid.*, p. 18.

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particular attention, believing that they have a significance for the political scientist which he must not disregard. For are they not a direct acknowledgment that the case of the sociologist is not so strong as he claims; and a clear indication, therefore, that it is as unnecessary as it would be mistaken for political science to accept a purely sociological theory of the state and thus to capitulate as completely to sociology as it has been in danger of capitulating to analytical jurisprudence? Do they not all admit the ultimate inadequacy of the normative value of social and ethical forces, and in so doing concede what is in reality not the social but the *political* hypothesis, however much that political hypothesis may have been obscured by legal analysis and terminology? In the hands of analytical jurisprudence the reality has very largely been taken out of the word "enforcement" itself and it has become simply indicative of a legal form. It may be true, as Professor Willoughby holds, that the distinguishing feature of positive law is the "official imprimatur" of the state;[36] but if one examines that imprimatur itself one discovers that its distinguishing feature is, in turn, the provision it contains for the ultimate sanction of physical force. Without the ultimate power to enforce, the right and authority would never have been assumed by society, and without the continuing power the so-called legal enforcement of the analytical jurist becomes merely words on the statute book; without the power actually wielded by the executive arm, the judicial authority to issue court decrees is in the nature of a farce. And in spite of the "pious wishes" of the sociologist and the legal interpretations of the jurist it remains true that the distinguishing characteristic of political organization consists in the fact that it supports itself against those who may be out of sympathy with its dominant will by the use of the organized physical force of the group, that is to say, by a physical sanction. Except for this matter of sanction, the political is like other forms of social organization; except where its sanction is applied, the state appears as any other social group.

[36] Cf. W. W. Willoughby, *The Fundamental Concepts of Public Law*, p. 147.

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A word of clarification is, however, necessary at this point, and a warning against the confusion that so frequently arises between the common interests that under ordinary circumstances hold the social group together, which may perhaps be called opinion, and the pressure that is brought to bear on those who put themselves in opposition to the group will, to which alone the term sanction is correctly applied. In contradiction to the position expressed in the preceding paragraph, the statement is frequently made that while coërcive force is an "incident of sovereignty," it is not, and must not be, its distinguishing characteristic—a point of view well summed up by T. H. Green in the following passage quoted by Willoughby: "If once the coercive power, which must always be an incident of sovereignty, becomes the characteristic thing about it in its relation to the people governed, this must indicate one of two things: either that the general interest in the maintenance of equal rights has lost its hold upon the people, or that the sovereignty no longer adequately fulfils the function of maintaining such rights, and thus has lost the support derived from the general sense of interest in supporting it. . . . . It is certain that when the idea of coercive force is that predominantly associated with the law-imposing or law-enforcing power, either a disruption of the state or a change in the sources of sovereignty must sooner or later take place."[37]

I have quoted this passage at length because it seems to me to contain at once so much of the true and the false. It is true, as I have pointed out elsewhere,[38] that in the vast majority of cases the sense of solidarity and the fundamental loyalties that operate to insure support for the sovereign power are necessarily and naturally active also in insuring obedience to that sovereign power, and that many of us are never aware of the restraining force of the law. And it is also true that stability in the state depends upon the existence of a certain relationship between the essentially social forces and the individualistic forces in the group.

[37] T. H. Green, *Philosophical Works*, II, p. 410, quoted by Willoughby in *Fundamental Concepts*, pp. 113–114.

[38] Cf. the author's article "The Pluralistic State," printed in this REVIEW, XIV, pp. 398 and 406 (August, 1920).

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As the individualistic forces, whether passive or active, approach in intensity those making for solidarity, the state becomes increasingly unstable and the government appears to be increasingly one of force and violence alone. To acknowledge all this, however, is not to reduce the use of coercive power to the position of an incident of sovereignty. For on the one hand, in so far as the ordinary social instincts are a genuinely regulative norm and men are of one mind and one will in the group, the political organization as such is in abeyance, sovereignty does not actively function, nor does the state as state appear. On the other hand, although it is true, as Professor Willoughby says, that "the highest ideal of statesmanship is to render the actual use of force as seldom necessary as possible,"[39] and although a state in which there must be an undue reliance on force is in a precarious condition, still it cannot be denied that so long as organization prevails over disorganization, a group that resorts to the use of physical power as a sanction for its will is, and remains, whatever its difficulties, a state, and by so much, fundamentally different from the group we have just been considering. The essential nature of the state, in other words, is not affected by the degree of its stability or by the amount of opposition with which it has to deal.

A recognition of this power of the state as behind and beneath the legal definitions of that power does, as Professor Merriam has claimed, "carry the discussion into the field where the science of society and that of the state meet."[40] It is here contended, however, that the meeting point must be pushed far enough back to include in the area belonging to the science of the state not only the theory of the legal state but the discussion of the actual power to enforce and of the original organization of that power, and that, moreover, it is to this portion of the field that the political scientist must especially direct his attention if he would faithfully portray the particular social forces with which he has to deal. He must, in other words, develop a *political* conception of the state as at one and the same time a refutation of the

[39] *Fundamental Concepts*, p. 113.

[40] *History of the Theory of Sovereignty since Rousseau*, p. 157.

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sociological theories and a necessary supplement to the juristic conception. It is, indeed, the main purpose of this paper to insist, on the one hand, that such a theory alone can adequately present and interpret the origin and nature of the state, and on the other, that such a doctrine will actually meet the criticisms and demands of the sociologists more satisfactorily than their own theories. For insistence on the underlying political realities will furnish a conception more substantial than the juristic, and at the same time *truly* realistic, since it is a study of social forces, not according to an ideal formula, but as they actually operate.

The possibility and the necessity of developing such a political theory of the state are, as a matter of fact, established in the presentation of the juristic theory by Professor Willoughby himself. For although at the outset, in marking off the field of political philosophy, he claims that the analytical and the ethical aspects of the subject comprise the entire field,[41] he does in his subsequent discussion present what amounts to a third division, that of the political as such, and devotes two chapters of his "Fundamental Concepts" to a consideration of state origins, and of "the birth and death of the state," in which he penetrates to something beyond the purely juristic conception. "Analytical jurisprudence," he says in the earlier chapter, "is concerned not *so much* [the italics are mine] with the evolution of political institutions as with the analysis of these institutions as they exist at any given time. Nevertheless the determination of the historical process by which distinctively political life has grown out of non-political social life is not without importance, since light is thus thrown upon the nature of political as distinguished from other types or kinds of communal existence of men."[42]

[41] Willoughby, *Fundamental Concepts*, p. 8. Cf. also p. 10, where, in rehearsing the viewpoints from which the state may be studied, he mentions the historical, the ethical, the psychological, the practical, and the juristic, but omits entirely the political as such, and p. 31, where he omits the purely political character of the state from the list of standpoints from which the state may be regarded. In the light of subsequent discussion (see especially p. 149), he would probably include what is in this paper emphasized as political under the historical, but without, it is believed, due emphasis on the political elements involved.

[42] *Ibid.*, p. 149.

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And in the later chapter we read: "In result, then, we may say that, strictly speaking, a juristic origin cannot be ascribed to sovereignty. Legally, each sovereign state starts, as it were, de novo and cannot have any legal bonds that unite it to any previously existing political body."[43]

In all fairness, it must be acknowledged that in this chapter of the "Fundamental Concepts," Professor Willoughby does for the most part remain true to the analytical point of view, in that he fixes the moment of state birth as the time when the legal phenomenon actually appears—when, as he puts it, "the desire for political union," which he makes the "psychological basis" of the state, "leads to the objective existence in objective fact of a ruling political organization."[44] By a political organization, also, he means a group which, for the realization of its common interests through the united efforts of its members, comes to have a more or less definitely organized existence and possesses definite organs for the expression of its corporate will . . . . and . . . . [in which] there is a recognition by the individual members . . . . of a general obligation upon their part, moral and legal, to obey the expression of the will as thus disclosed, and therefore an admission of the right of the ruling authority to enforce its commands by physical and other sanctions."[45] At the same time, in dealing with origins at all he is to that extent going beyond the purely analytical point of view, and is consequently widening by so much the field of political philosophy.

In his earlier work, moreover, "The Nature of the State," he is even more ready to acknowledge an actual state origin anterior to the appearance of the objective legal phenomenon. For while on page 120 of that work he states, as in his later book, "that the body politic cannot be said to be created until the desires that [the] . . . . feeling [of unity] engenders have become outwardly realized by the erection of a common governing authority," and on page 290 that "until a people become politically organized there is no sovereignty," still on page 50 we read:

[43] Willoughby, *Fundamental Concepts*, p. 173.
[44] *Ibid.*, pp. 159–158.
[45] *Ibid.*, p. 4.

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"The only *truly* sovereign act, therefore, that may be performed by the people as such is the original creative act by which, at the very inception of the state's life, they are to be conceived as justifying the existence and the powers those organs provide for its more permanent organization." In a later discussion of the constitution, also, the following statements appear: "The constitution is the instrument that definitely creates and defines the organs through which the state *already subjectively in existence* is henceforth to exercise its activities. . . . . The true constitution of the state may be said to date from the earliest beginnings of state life when first the feeling of unity began to be felt by the people. . . . . The state is born when the common consciousness of a community reaches a certain degree of preciseness, but since the fact of that point having been reached is only recognizable by the outward manifestations to which it leads and which are necessarily subsequent to it, it is no more possible for a community to fix the instant of its creation as a body politic than it is for the individual to determine by memory the moment at which he became conscious of his identity and personality"[46]—a point of view surely quite different from that of the pure analytical school. For in thus acknowledging the act by which the original constitution is set up to be a sovereign act, and in defining sovereignty as he does on page 195 of the "Nature of the State" as "the highest political power as embodied in the state," and in further declaring that "sovereignty upon which all legality depends is itself a question of fact and not of law,"[47] he does in reality make of the political phenomenon something more than the merely legal, and does, therefore, actually include in the subject matter of political philosophy something beyond the two areas originally outlined as making up its whole field.[48] He does, in other words, it is contended, acknowledge and recognize what we have termed the political state, in contradistinction both to society and to the legal state.

[46] Willoughby, *The Nature of the State*, pp. 130–133.

[47] *Ibid.*, p 217.

[48] Cf. comment of Professor Crane on *The Juristic Conception of the State*, in this REVIEW, XII, No. 2 (May, 1918).

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It may be true, as Professor Willoughby says, that it is not possible for a community to fix the instant of its creation as a body politic. That does not, however, do away with the fact that there must have been such a moment; and it is the belief of the present writer that by capitalizing, so to speak, that moment, political science may rehabilitate itself. It is believed, furthermore, that that moment may be defined as the time when those members of a social group who are for some reason, personal, economic, social, historical, or religious, actually in control of the major physical force of the group, determine to use that force in putting their will into effect; and that their will, taken together with this determination and the power to enforce, may be termed political sovereignty. It is true, as Professor Willoughby says, that the presence of all of these facts—the actual control of the major force, and the will, and the determination, and therefore the beginnings of political organization—cannot be known objectively until they find outward expression; but the fact that such outward expression does appear proves conclusively, it is submitted, the existence of that which is expressed. It may be conceded to the juristic doctrine that in the act of expression the political becomes the legal, law emerges, and the legal state and legal sovereignty appear; but they are without concrete reality unless that which lies behind and beneath is taken into account. Nor do these underlying concrete realities disappear with the emergence of the legal state. On the contrary, they remain to reassert themselves whenever political action not in accord with the existing constitution is undertaken; as Professor Willoughby himself virtually recognizes when he says: "If a change in the form of government is brought about by illegal or revolutionary means, however peaceably, a new government régime is instituted which finds its basis in the original spontaneous or directly sovereign act of the state or its people."[49]

Not only, it is further submitted, does the recognition of the political state and political sovereignty serve to take these underlying realities of the political process into account, and in so

[49] *Fundamental Concepts*, p. 50.

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doing relieve the juristic theory of its too abstract and fictitious character; it also does much to remove the logical difficulty of the juristic doctrine already alluded to, that whereby the state is declared to be legal although not a creation of the law. For its emphasis on the ability and the determination to enforce, which are present in connection with the original act of will which may be said to bring the political state into existence, makes of that act of will something closely akin to law, although the perfected machinery for enforcement may come only with the appearance of the legal state and its governmental mechanism. And herein is to be seen also the reason why the original constitutional law of a state as the expression of that act of political will may rightly be designated as law rather than merely as "positive morality." Although, in Sir Paul Vinogradoff's words, it is only "law of imperfect sanction," still in the determination to enforce, its character as law is more clearly evident than in the expression of will by an ordinary social group.

This conception does not underestimate the important part that specific social and psychological conditions in the group must play in the effective working of the political organization. But it insists that in the political organization those specific sociological and psychological conditions have a certain particular and peculiar relation to each other—that, namely, which has to do with the use of coercive force. It makes clearer also the necessary distinction between state and government than that distinction can, in the opinion of the writer, be made in the juristic theory alone; because that distinction can now be drawn between two concrete realities rather than between an abstraction, the legal state, and a concrete reality.

The conception of the political state offers also a more tangible explanation, in terms of sovereignty, of the situation in which a governmental organization finds it impossible or inexpedient to insist upon the enforcement of a given law. Such a situation is described and accounted for by Professor Willoughby as follows: "Such a court order may, in fact, be not obeyed either because the executive branch of the government refuses to lend its assistance or because there is such popular resistance that the

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executive, though willing, finds itself unable to enforce it or deems it inexpedient to do so. In such cases all that can be said is that there has been a violation of the law—which, however, no more destroys the law as law than is the criminal law destroyed when crime is committed."[50] But is this all that can be said? Is it not more satisfactory, as well as more true to the facts of the case, to perceive that the apparent inability of a government to deal adequately with opposition must be due to one of the following situations, both of which penetrate the legal form to the realities beyond, and in both of which the sovereignty of the state is revealed as still intact. It may be that in passing the law in question the government was not accurately registering the actual sovereign will of the state, in failing to take into account the attitude of those who now defy the law, whose attitude is in reality, however, an integral and conditioning factor in that sovereign will and must be recognized as such. Or it may be that under the given circumstances the government, and even that which is or has been the political state behind the government, has deemed it inexpedient to push the matter to a final test, without which test, however, it is impossible to determine where the power of control really lies, i.e., whether the political sovereignty still resides in that which has been the controlling factor or has passed to the opposition group or groups.[51]

The political conception of the state is by no means blind to the large part played by the modern state in the performance of service functions, nor to the desirability of an increasing activity along that line. It would only point to the fact that the relation of the state to such services is eternally different from that of the ordinary social group, in that it, the state, has the power to enforce whatever policy it may adopt—that, in other words, the element of control always goes hand in hand with that of service. In connection with no one of the functions of the state, however, does the political, any more than the juristic, theory lay any claim to moral validity. All that it seeks to do is to describe and

[50] *Fundamental Concepts*, p. 145.
[51] Cf. "The Pluralistic State," *loc. cit.*, p. 403.

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account for political organization, leaving to the moralist the justification or otherwise of the use made of political power.[52]

It is even believed, although it is stated with some hesitation, that absoluteness can in a very real sense be predicated of such a political state and political sovereignty—absoluteness, that is, as a fact, and not simply as a legal formula. For, given the particular set of social conditions which we have outlined as providing the material for the political organization of society, the power of that part of the community which controls the major physical force is, because of and through that control, as absolute while it lasts as anything humanly speaking can be. Exceptions there will be, it is true, to its effective working. But inasmuch as "all human life consists in making approaches," in tendencies toward an end, rather than in ends actually achieved, and inasmuch as all differences are in the last analysis probably differences of degree rather than of kind, it is here submitted that in so far as anything can be described in static terms, absoluteness can be predicated of the political state as such.

And, finally, it is contended that this conception of sovereignty is consonant with, that it in fact resolves into a working harmony, the various apparently conflicting views as to the relation of law to the state. In the process which has here been described law, in its original emergence, becomes the creation of the political state, and at the same time, to quote Sir Paul Vinogradoff again, "one aspect or manifestation of the legal state" coincidently with which it comes into existence.[53] Once the legal state is considered to be in existence, moreover, law thereafter appears as proceeding from it.

It is, of course, recognized in submitting this interpretation of the state that the idea of political sovereignty is by no means new. It has figured in the writings of many who have been likewise interested in solving some of the difficulties of the juristic

[52] This point is ably brought out and developed by Professor Willoughby in "The Juristic Theories of Krabbe," in this REVIEW, XX, especially p. 523 (August, 1926).

[53] Cf. Vinogradoff, *Historical Jurisprudence*, I, pp. 84 sq., and "The Juridical Nature of the State," *Michigan Law Review*, XXIII, No. 2 (December, 1924).

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doctrine. The descriptions of political sovereignty offered by these writers, moreover, cover a wide range. It appears variously as public opinion (according to Ritchie);[54] as the working will of society (according to Dewey);[55] as a catalogue of influences (according to Woodrow Wilson);[56] as "the sum total of the influences in the state which lie behind the law" (according to Gilchrist);[57] as "the constituent basis of the state . . . . the condition of a society under law" (according to Elliott);[58] as the electorate (according to Dicey);[59] and finally, under the guise of "practical sovereignty," as the power which receives and can by the strong arm enforce obedience (according to Lord Bryce)[60]—a description, it will be perceived, which comes in some respects very close to that offered in this paper. While all of these definitions, however, distinctly point in the direction of the realities underlying the legal phenomenon, each one of them, with the possible exception of the last, is either too narrow or too broad; and no one of them goes far enough in analyzing and describing the political phenomenon as such. In no one of them does the political state, as I have attempted to elaborate it, appear; and in no one of them is the political process adequately accounted for. A true account of that process must, I would repeat, take into consideration all the three sets of factors with which we have here been concerned—not only the legal and social but the political as well. And if these three elements are given their due place, the state and sovereignty will inevitably appear, it is believed, as I have presented them here—as something more definite than "social influences" and "public opinion," and though less definite, perhaps, than law in its fully developed form, yet as something essentially real, of which sociology, analytical jurisprudence, and political science must alike take cognizance.

[54] "On the Conception of Sovereignty," *Annals of the American Academy of Political and Social Science*, I, p. 401.

[55] "Austin's Theory of Sovereignty," *Political Science Quarterly*, IX, p. 43 (March, 1894).

[56] *An Old Master and Other Essays*, p. 78.

[57] *Principles of Political Science*, p. 115.

[58] *Loc. cit.*, pp. 495–496.

[59] *The Law of the Constitution* (2nd ed.), p. 67.

[60] *Studies in History and Jurisprudence*, p. 520.

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THE EVOLUTION OF THE LEAGUE OF NATIONS[1]

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All living organisms, no matter how minute or insignificant, when examined through the microscope, appear enormous, intricate, and extraordinarily active. Similarly, the world at large, when considered through the microscope of contemporary analysis, has no doubt, at all historical periods, struck its immediate witnesses as being infinitely complex and eventful. Is it, then, a mere delusion if the flow of recent and current happenings impresses us as being exceptionally uneven and rapid in its course, as resembling indeed a swollen Alpine torrent at the melting of the snow in the spring?

I believe not. I believe that, even viewed in the perspective of centuries, the last ten years will be characterized by the future historian as an epoch of extraordinarily numerous and radical changes.

To consider the world in its political aspects only, what previous decade has witnessed as many momentous events as the last? The final, decisive struggle and the end of the greatest war that has ever taken place. In Europe alone, the crumbling of four of the most powerful monarchies. The setting up or resurrection of seven or eight new or reborn sovereign entities. The spread of the republican principle from three to fifteen states. The establishment of a professedly communistic régime over a population of more than a hundred million human beings at one end of the continent and the setting up of several more or less absolute dictatorships at the other. Finally, and leaving aside many minor events which in less extraordinary times would have loomed uncommonly large on the political horizon, such as state bankruptcies and revolutions, the foundation of the first effective, free, coöperative, and resolutely pacific League of Nations the world has ever seen.

[1] An address delivered before the Geneva Institute of International Relations on August 8, 1927.

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No wonder, then, that in this tempestuously changing world the League of Nations should itself have undergone such modifications in its structure and in its functions that, less than eight years after its legal birth, one should already think of speaking of its evolution. The fact of its evolution is in itself both encouraging and disquieting for the friends of peace.

It is encouraging as a proof of reality and vitality. In the rough political weather of the last ten years, only those ships have invariably kept on an even keel which have remained in port. The League has been battered about because it has sailed boldly out into the open sea. Even if it has not always succeeded in mastering the waves—even if it has sometimes been prevented from completing its trip and from delivering its cargo—it has at least proved tolerably seaworthy. That is an achievement which none could have foretold with certainty ten years ago.

On the other hand, the rhythm of growth and change in the League may also inspire some misgivings. It must, at any rate, call for very great vigilance. If stability is not an ideal, excessive instability is neither a sign of health nor a condition of success. To live fast is not necessarily to live long; a tempestuous youth does not always guarantee a fruitful manhood nor a happy old age.

Let us therefore consider the evolution of the League with an open mind, both hopeful and critical, seeking only to discover the truth and thereby avoiding the double danger of unjustified optimism and of undue despondency.

The League of Nations began to evolve even before it was truly born. This first evolution we studied last year, when considering the League as an historical fact.[2] We then noted that none of the conceptions of its principal founders had been completely realized either in the Covenant, to the drafting of which they had contributed, or still less in the League as it had grown out of the Covenant in the first six years of its existence.

The League, as it is today, is neither exactly the Wilsonian League to guarantee a just peace, nor the League of Léon Bourgeois to maintain a secure peace against, and at the expense of,

[2] See my paper published under this title in *The Problems of Peace* (London, 1927), pp. 18-49, and reprinted in the June, 1927, number of *International Conciliation*.

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the vanquished, nor the League to which General Smuts proposed to assign the duty of administering large parts of Europe, nor even, although more nearly, the Cecilian League to prevent the sudden outbreak of war. We noted last year that it was exactly none of these things, that it was really both something less and something more. It was, we found, not so much a League to enforce peace as an international organization to promote voluntary coöperation, public discussion, and pacific negotiations among its members.

Today we would examine somewhat more closely the recent development of this organization. We propose to note the changes it has undergone, first in its structure, and afterwards in some of its principal functions.

THE MEMBERS

Of the structure of the League, by far the most fundamental feature is, of course, its membership. One may differ, and publicists have differed, as to which is the most important organ of the League—the Council, the Assembly, the Secretariat, the Court, or the International Labor Organization. All must agree, however, that the most vital organs of the League of Nations are, as its name indicates but as is too often forgotten, the nations which compose the League. Therefore by far the most significant changes which have taken place in the structure of the League are the fourteen admissions and the three resignations which have occurred since its foundation.

When the Covenant was adopted by the Peace Conference of Paris on April 28, 1919, its Annex provided that forty-five states might belong to the League as original members. Of these, thirty-two, the victorious belligerents, were to join as signatories of the treaty of Versailles, and thirteen, former neutrals, were "invited to accede to the Covenant." Of the thirty-two victors, twenty-eight effectually joined by ratifying the treaty of Versailles; one, China, who refused to take this step, by ratifying the treaty of Saint-Germain; while three, the United States, Ecuador, and Hedjaz remained aloof. All of the thirteen neutrals invited

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to accede to the Covenant promptly did so.[3] As a result, the League had forty-two original members when the first Assembly met in Geneva in November, 1920. Six more states were admitted in 1920, three in 1921, one in 1922, two in 1923, one in 1924, and one in 1926. The total membership of the League today would therefore be fifty-six if Costa Rica, by seceding at the end of last year, had not reduced it to fifty-five.

It might be interesting to analyze these figures from many points of view, as the evolution of the League is naturally bound to be influenced in its course by the composition of its membership. In the limited space at my disposal, I shall make only two observations. The first relates to the growing importance of Europe in the League. In 1920, sixteen out of a total of forty-two original members were European states, that is 38.1 per cent. Today, twenty-seven out of a total of fifty-five members are European, that is 49.1 per cent.

The other point to which I wish to call attention is the change resulting from the gradual entrance into the League of the states defeated in the Great War. The Covenant was drafted by the victors in 1919, and it would have been surprising if it had not been drafted primarily in their interest. All the permanent, and all but one of the non-permanent, seats on the Council were to be occupied by themselves. Now, in 1920 already, two of the defeated powers, Austria and Bulgaria were admitted into the League. In 1922, Hungary followed, and Sweden, a second former neutral, was elected to the enlarged Council. Finally, in 1926, Germany was admitted into the League and given a permanent seat on the Council. Furthermore, four former neutrals, Netherlands, Chile, Colombia, and Salvador, were elected as non-permanent members in the place of the two, Spain and Sweden who, up to last year, had alone represented that part of mankind which was not associated with the military triumphs of 1918. Thus, in the short space of seven years, the League of Victors became a League of Nations.

The rapid and steady growth in the total membership of the League is, of course, most gratifying both as a symptom and as a

[3] See Manley O. Hudson, "Membership in the League of Nations," *American Journal of International Law*, XVIII, 436–458 (July, 1924).

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cause of increasing strength and influence. The satisfaction which all friends of peace must feel on this score is unfortunately tempered by two considerations of very unequal importance. The first relates to the resignation in 1926 of two states which had, since the beginning, been represented on the Council. It is assuredly most regrettable that Spain and Brazil should have been led to sever their connection with the League, and it is much to be hoped and, I think we can add, confidently to be expected, that they may sooner or later find their way back to the Geneva fold.

Much more serious, in my view, is the prolonged aloofness of the United States of America and also, although in a lesser degree, of Russia, Turkey, Mexico, and of the smaller states which have not yet joined. The significance and the consequences of the absence of America from the councils of the League are being continuously and passionately discussed from divers points of view. Whereas during the first years of the League's existence, its whole policy seemed to be shaped by the desire to allure the United States to Geneva, today a reaction has undoubtedly set in. Furthermore, public opinion, even abroad, seems to be changing as regards this question. One of the League's strongest supporters in America[4] has lately gone so far as to give it as his opinion that, on the whole, her absence may very well prove to have been a blessing in disguise. In view of its obvious importance for the evolution of the League, I may be permitted to consider this question for a brief moment quite dispassionately.

The absence of the United States I regard as a calamity, the tragedy of which can hardly be overestimated. As long as the great American republic declines to assume any responsibility for the maintenance of peace through the instrumentality of the League, the League, in my opinion, will lack the authority necessary for assuring the maintenance of peace. The United States is, in many respects, the actually or potentially most powerful nation of the world. It is, beyond doubt, the most powerful of those nations that have no specifically national interest nor bias

[4] See David Hunter Miller, *Wilson's Place in History* (an address delivered at Albany, New York), p. 15.

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in the disputes of Europe, that hot-bed of war. It is primarily to America's absence that I attribute the relative lack of fairness and effectiveness which the League has shown in dealing with such tasks as the government of the Sarr and the protection of minorities, or with such conflicts as those of Upper Silesia, Vilna, or Corfu. The absence of the United States has weakened the League, not only immediately, by depriving it of the support of what might be one of its most influential members. It has weakened it also, and perhaps still more, indirectly. It has done so by undermining the loyalty of various members toward the League, by preventing them, for lack of faith in its effectiveness or for fear of compromising their relations with America, from supporting it wholeheartedly and by allowing them in certain cases to flout its authority or to vitiate its decisions by more or less veiled threats of resignation. Without America, the League remains an association of nations which one may join or leave at one's discretion, whose corporate solidarity is feeble and whose uncertain collective will may be disregarded with impunity, at least by any of its principal members. With America as a full-fledged member of the League, on the contrary, the League would necessarily soon become universal. It would then be possible to envisage seriously the definite organization of peace on the basis of impartial justice and of real international security, without which war remains a constant threat and disarmament therefore little more than an extremely interesting but rather delusive subject of conversation and debate.

In stating this opinion, which I fully realize is not shared by most European friends of the League, I do not overlook the great political difficulties which might arise from the coöperation of a state whose population is still far from being nationally homogeneous, nor the great technical difficulties which would be bound to arise from the coöperation of a state, one branch of whose legislature seems to find peculiar satisfaction in asserting its own importance by opposing the foreign policy of the government. Nor do I suggest that all business in Geneva should be adjourned until the United States accedes to the Covenant, and the program of the League defined mainly with a view to making it acceptable

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to Washington, as was perhaps too sedulously done during the first years after 1919. That policy would seem mistaken, less in its aim than because the means adopted for attaining it are perhaps not the best fitted for the purpose. To suggest humbly and imploringly that the League cannot do without America would seem as contrary to the dignity of Europe as to the purpose of attracting the United States. On the other hand, it would seem no less unwise to proclaim haughtily and with obvious insincerity that the League can very well forego American coöperation.

What, then, would appear to be the proper attitude? To do one's best without the United States, in the hope that the allurement of even limited success, combined with the consciousness of the terrible historical responsibility incurred by preventing that success from being complete, will sooner or later induce the nation to which the world owes the existence of the League to assume its natural place in Geneva.

THE COUNCIL

After the growth in membership, the second point to be noted in the evolution of the organization of the League is the gradual transformation undergone by the Council. In Lord Robert Cecil's original draft of January 20, 1919, only the five principal allied and associated powers were to be represented on the Council. Thanks to the combined efforts of General Smuts, President Wilson, and the representatives of the smaller powers in Paris, it was decided, first that two, and then that four, of the latter, chosen by all the members of the League,[5] should be represented. According to the first edition of the Covenant of February 14, 1919, the Council was thus to consist of five permanent and four non-permanent members. In the final draft, this provision remained unaltered, but, perhaps at the instigation of the neutrals, a clause was added for the further enlargement of the Council.[6]

[5] Ray Stannard Baker, *Woodrow Wilson and World Settlement* (London, 1923), I, 226; Philip Baker, "The Making of the Covenant from the British Point of View," in *Les Origines et l'Oeuvre de la Société des Nations* (Copenhagen, 1924), II, 37.

[6] Schücking und Wehberg, *Die Satzung des Völkerbundes*, 2. Auflage (Berlin, 1924), p. 297.

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At its first meeting in Paris, on January 16, 1920, eight members sat at the table of the Council. Four represented the principal allied powers—the associated power having refused to continue to work with its former associates—and four, the so-called smaller nations. In 1922, as it was felt that certain important groups of states should no longer be left without representation on the Council, and as it was feared that non-reëlection of the existing members without the previous adoption of a regular code of procedure providing for a system of rotation in office might give rise to an acute crisis, and possibly to resignations, and as the adoption of such a code was resolutely opposed by various states, notably by Spain, the Council and the Assembly agreed to increase the number of non-permanent members from four to six. Finally, in 1926, a still further and much more sweeping change was made. Germany, whose admission had been refused in Versailles in 1919 and more and more generally hoped for in Geneva ever since, insisted on a permanent seat as one of the conditions of entrance. This alone made a change imperative. Besides, at least three states, Spain, Brazil, and Poland, had demanded a similar privilege, and one of them, Brazil, in March, 1926, went so far as to oppose Germany's request unless her own was considered. The refusal of Germany and of several other states to agree to these demands gave rise to the well-known crisis of March, 1926, which led to the appointment of a Commission of Fifteen to consider the reconstruction of the Council.

The recommendations of this commission were adopted, with some slight amendments, by the Council and the Assembly in September, 1926. As a consequence, the Council was enlarged by one permanent member and three non-permanent members. Its structure was further altered by the adoption of the principle of the non-immediate reëligibility of at least six of the nine non-permanent members.

My object in briefly recalling these familiar facts is but to show the general trend of the evolution of the Council and to seek to assess its significance. This evolution resulted, first, in the increase of the total membership of the Council from eight in 1920 to ten in 1922 and finally to fourteen in 1926, and, second, in the

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numerical preponderance of the elected over the permanent members. The latter, who, according to the original Covenant, were to enjoy a majority of one, are today in a minority of four.

What is the significance, and what are the probable consequences, of these changes in the structure of the Council?

It should be noted, first of all, that they were brought about, not as the corollary of a new theory in international affairs, nor because they were deemed inherently excellent by their authors. They are clearly the result of the pressure of political circumstances. They sprang from the desire to placate candidates, or rather from the fear of disappointing them too grievously. The fact that the Council was enlarged by the will of the great majority of the members of the League is no more a proof of the real superiority of a large over a small Council, nor even of their preference in this respect, than the absorption of castor oil by one afflicted with indigestion is the recognition of his partiality for that beverage. As a preventive against a particular ailment, the enlargement of the Council seemed necessary, although the resignations of Spain and Brazil, which it was intended to forestall, must lead one to question even its prophylactic qualities. As a measure of general reform, however, it should be judged solely on its inherent merits and quite irrespectively of the circumstances which led to its adoption.

Prima facie there is undoubtedly something to be said in favor of enlarging the Council of a growing League with increasing responsibilities. Is it not conceivable that the Council owes its increased prestige to its being more numerous and more representative in membership in 1927 than in 1920, and is the enhanced prestige of the Council not a gain for the League as a whole?

That the prestige of the Council is today greater than it was at the birth of the League is a fact as indisputable as it is gratifying, but that the growth of its moral authority is due to the concomitant growth of its membership is, at best, a presumption. It is not difficult to discover other reasons for this progress, which was as noticeable from 1923 to 1926 as it has been since the addition of four new members, the accession of one of which, Germany,

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of course represents much more than a mere quantitative increase. What, then, are the arguments which may be adduced against the innovation?

There is one which, although perhaps more frequently urged than any other, has not, in my opinion, much more than a formal significance. It has been stated, notably in the British Parliament, that, as the Council can act only when unanimous, the more numerous its members, the less the chances for unanimity and the greater, therefore, the danger of deadlock. As a matter of fact, in the present state of the League and of international society generally, decisions of vital importance for all states can be carried out only with the concurrence of all, whether they be represented on the Council or not. On the other hand, experience seems to have shown that decisions of minor importance can always be reached and carried out when the great powers on the Council are in agreement and can never be effectuated in the face of the decided veto of any one of them. To be sure, a small nation can, in exceptional cases, and if represented by men of exceptional courage and ability, hold out against the great, but only if, in addition, it be assured of the open support of public opinion the world over, and perhaps also of the covert support of at least one great power on the Council. Under the circumstances, therefore, the danger of deadlock in the Council does not appear to be a probable consequence of the enlargement of its membership.

There are, however, other objections to the enlargement of the Council which would seem to carry far greater weight. In the first place, I submit that the best policy is that which conforms most closely to political realities. That is the main reason why among many of the best friends of the League, especially in the smaller nations, a Council of fourteen members, a Council on which Salvador and Columbia have technically the same influence and the same rights as Great Britain and France, is looked upon with real misgivings. If the Council is to enjoy the greatest confidence, it must be a body in which real power is, to some extent at least, commensurate with real responsibility and in which all members speak with full knowledge and act with such

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a measure of freedom as is compatible with their position as representatives of sovereign countries.

Now, can it be expected that a Council of fourteen most unequal members be such a Council? Is it not obvious that within it the real power, the real responsibility, and the real knowledge will be confined to an inner circle, whose decisions will be practically and politically, even though not legally, final and binding upon the other members? And what will be the position of the latter if they remonstrate and insist on their technical rights? If they refuse to endorse blindly the decisions of their major colleagues, as honest men and statesmen conscious of the dignity of their country and of their duties to the League should do in certain cases, what will be the likely result? Either they successfully resist the bullying to which they are bound to be exposed, and then their action may shatter the Council and the League itself by causing the great powers to withdraw the disputed question from the jurisdiction of Geneva. Or they submit in silence, as they are very much more likely to do, especially if they be diplomats accredited in Paris, Rome, or London. In this case their presence on the Council merely serves as a screen behind which the policies of the great powers are shaped and carried out —a screen, and at the same time a gag—which is unlikely to make for sincerity and open diplomacy.

This leads me to state the second main objection to the unduly enlarged Council which is entertained in many quarters. All careful students of current international politics will recognize that the great link between the League and the public opinion of the world is the Assembly. Everything that tends to increase the frankness, the reality, and thereby the interest, of the Assembly proceedings strengthens that necessary bond. Now, the Assembly, in its debates on the reports of the Council, which has been and should again become the great annual event in the life of the League, will be the more outspoken as it comprises more influential members whose countries have assumed no responsibility for the action of the Council under discussion. By increasing from four to six, and then to nine, the number of

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the elected members of the Council, the League, while not, as I see it, making the Council more truly effective, has certainly exposed the Assembly to becoming less so, by depriving its natural leaders of their freedom of speech.

In many respects, the Council in its present composition, reminds one of a coalition government in which the parliamentary opposition is represented, not enough to be a real force in the executive department of the state, but just enough to be appreciably weakened in the legislature. That is why, paradoxical as it may seem at first glance, the recent enlargement of the Council tends, I believe, to endanger the authority of the Assembly and, indirectly, to diminish the influence of those very states whose chances of election to the Council it has increased.

On the other hand, the adoption by the Seventh Assembly of the rules of procedure regulating the election and limiting the term of office of the non-permanent members of the Council should be hailed as a very real gain which, in my view, to a large extent offsets the disadvantages to which I have just alluded. Thanks to these rules, it is to be expected that the Assembly will in future go about its business of electing the non-permanent members of the Council with greater freedom, with less nervous intriguing, and with less talk of crises and imminent resignations than has hitherto been the case.

As, in sketching the evolution of the Council, I have not refrained from very frankly criticising it in its present structure, I may be asked how, in my opinion, it might with advantage be improved upon. Although I attach no objective importance whatever to my views, but merely because I feel I owe it to those whom my all too negative criticism may have disquieted or irritated, I will briefly say that I would deem it preferable if (1) the membership were reduced from fourteen to nine or ten; (2) permanent membership were abolished and all members were annually or biennially elected by the Assembly; (3) a number of candidates equal to the number of great powers in the League were held to be indefinitely reëligible whereas the remaining members were to be considered reëligible only at every other

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election; and (4) the rules of the Covenant, according to which the states not represented on the Council are to be invited to send representatives to sit as members for the consideration of all matters specially affecting their interests, were applied in a less perfunctory manner than heretofore.

Such a system, which it is of course much more difficult to set up today than would have been the case a year ago, would, I believe, present very real advantages.[7] It would make the Council more responsive to the will of the Assembly and to public opinion. It would do away with the irritating distinction between elective and non-elective members to which the resignation of Spain and Brazil were due. It would prevent the over-representation of certain political groups, from which the Council and the League are undoubtedly suffering today.[8] For all these reasons, it would, in my judgment, enhance the moral authority of the Council, as well as the influence of the Assembly and the vitality of the League as a whole.

Besides the structural evolution of the Council, another change in its actual composition should be noted, which is perhaps of even greater significance, and which is certainly to be hailed with unalloyed satisfaction. Whereas during the first years of the League's existence the members of the Council were often men of minor importance in their own countries, this has almost entirely ceased to be the case, at least in so far as the representatives of European governments are concerned. The fact that the Council meetings have come to bring the foreign ministers of the greater European states into personal contact four times a year is one of the happiest developments of recent times and one which would alone justify the existence of the League. Even if there were no available indications of the fact—which is, of course, far from being the case—the following figures alone would suffice to show conclusively that the Council and the League have appreciably gained in prestige in the course of the last seven years.

[7] Some such system was urged from various quarters last spring. See, for instance, my article in the *Revue de Genève* entitled "La réforme du Conseil."

[8] The present Council of fourteen comprises, for instance, four out of the five Continental allies of France, a circumstance which may well, to a certain degree, explain the disaffection of her rival, Italy.

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Year	Number of Council Sessions	Number of States Represented	Number of Prime and Foreign Ministers Among Council Members	Proportion of Prime and Foreign Ministers to Number of Council Members
1920	11	8	5	5.7 per cent
1921	4	8	0	0 "
1922	7	8	0	0 "
1923	5	10	1	2 "
1924	5	10	7	14 "
1925	5	10	15	32 "
1926	6	10–14	27	39.5 "
1927*	2	14	12	42.9 "

* Up to August.

THE ASSEMBLY

Can the same be said of the Assembly?

Measured by the same external standards, the Assembly also would seem to have gained in international prestige since 1920, as the following figures show:

Year	Number of States Represented	Number of Prime and Foreign Ministers Among Delegates	Proportion of Prime or Foreign Ministers to Number of Delegation
1920	47	6	12.8 per cent
1921	52	8	15.4 "
1922	51	9	17.6 "
1923	50	6	12.0 "
1924	51	22	43.1 "
1925	50	17	34.0 "
1926*	47	16	34.0 "
1926	50	18	36.0 "

* Extraordinary Assembly.

If the presence at the Assembly of the leading statesmen of the members of the League is a true indication of the importance which they themselves and their governments attach to the work done in Geneva every autumn, then these figures also tend to show an encouraging development. As a sympton of League vitality, what one might call the improved membership of the Assembly is undoubtedly gratifying.

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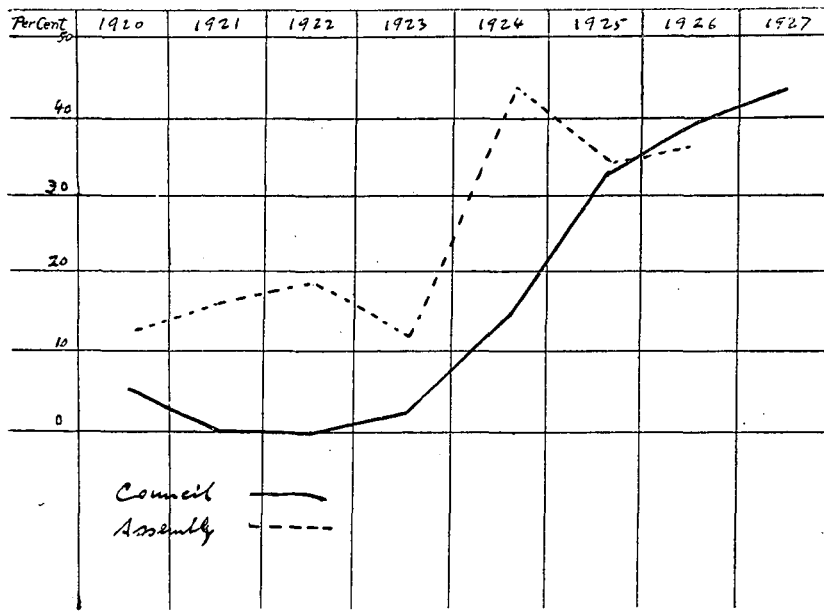
In order to judge fairly of the evolution of the Assembly as a part of the institutional architecture of the League, however, it would, of course, be necessary to take other indications into account also, It would, in particular, be necessary to estimate and to compare the significance of the statements made, of the resolutions passed, of the conventions drafted, and, above all, of the influence exercised by the successive Assemblies on the development of the League and on world politics in general. It is obvious



that this cannot be done by any simple statistical method, nor with any pretense of scientific accuracy. No one will deny that the Assembly of 1920, by adopting the statute of the Court; the Assembly of 1922, by the stimulus it gave to the reconstruction of Austria; the Assembly of 1923, by the pressure it brought to bear on the settlement of the Corfu affair; the Assembly of 1924, by drafting the Protocol; and the Assembly of 1926, by admitting Germany and thereby putting the Locarno treaties into force, played a decisive part in world affairs.

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On the other hand, I wonder whether many careful students of the League's evolution would deny that the first Assemblies showed a spirit of self-confidence and of constructive imagination which the more recent have failed to display. Whether it be the disappointment over the rejection of the Protocol, the loss of leadership resulting from the death of Branting, the absence of Professor Gilbert Murray and the acceptance of office in Great Britain by Lord Cecil, the natural effect of age, habit, and experience, or the growing preponderance of the Council, it is hard to say. But personally I cannot escape the conviction that in the wholesome emulation between the two bodies, the last three Assemblies[9] have not held their own against the Council and that, unless a reaction sets in, the latter body may become dangerously predominant. I say "dangerously predominant," because nothing could weaken the loyalty of the majority of the states toward the League, and thereby the influence of the League itself, more than the feeling that, in the Assembly, they were being treated with insufficient consideration, maneuvered, and subjected to undue pressure by the minority of large powers represented on the Council. It will be extremely interesting in this connection to note the effects of the new rules of procedure governing the election of the enlarged Council. Let us hope that they may not result in still further weakening the Assembly by splitting it up into rival factions.

The Assembly can play its all-important part as a general director of League policy and as a link between the Council and the public opinion of the world only if it remains conscious of its rights and of its duties, of its dignity, and of its corporate unity. Its official members must, of course, never forget that they are not merely individual exponents of their own private views, but also responsible representatives of their respective states. At the same time, some of them at least should have the imagination to realize that the League is more than only the sum of its constituent nations, that it is a new political entity which, as such, needs supranational leadership and calls for a new form of world statesmanship.

[9] Prior, of course, to that of 1927.

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Possibly the presence in the Assembly of a small number of the world's greatest minds, drawn from other than only political fields and freed from all governmental instructions, might quicken its vitality, enhance its prestige, and increase its usefulness. It has been observed, and it is not difficult to understand, that real international leadership is rarely compatible with strictly national responsibility. That is the main reason why men like Nansen, Lord Cecil before he joined the British cabinet, and Gilbert Murray exercised and, in the case of Nansen, still exercise, such real leadership in the Assembly. Having no strictly binding official mandate, they expressed only their own views. By so doing, they often reëchoed the hopes, the fears, and the wishes of the world more faithfully and more effectively than their diplomatic colleagues.

Would it be inconceivable that, say, three men of great international reputation, such as Einstein, H. G. Wells, or the French historian Aulard, should be invited to attend the Assemblies with the right to address them if they felt that they had a useful message to deliver? Could not, for instance, the Committee on Intellectual Coöperation be requested to choose, every year, three such men, and might it not thereby render the League and the world a service truly worthy of the individual eminence of its members?

The foes of the League have so insistently warned their followers against the danger of the super-state that its friends, in combating that notion, have often gone to the opposite extreme. If by a super-state we understand a political entity whose sovereignty overrides that of its component parts, the League is, of course, nothing of the kind. The states members of the League of Nations enjoy a far greater measure of independence than do, for instance, the so-called sovereign cantons which make up the Swiss Confederation. It would, however, in my opinion, be equally erroneous as a statement of fact and unfortunate as a forecast of policy to declare that the foundation of the League had exercised and would exercise no influence whatever on the status of its members, but merely offers them new possibilities of international coöperation. The British dominions also, to take another

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national example, are free and equal members of the British Commonwealth of Nations. So, at least, we are constantly being reminded on the highest authority, and so we are valiantly striving to believe. Even if our benighted Continental minds succeed in understanding and sharing this conception, does it follow that we must look upon the British Empire as nothing more than a method of international coöperation and not as being, in itself, a legal entity and a political reality of the greatest importance?

So with the League of Nations. Much less than an all-powerful super-state, much more than a mere international letter-box, it is a Commonwealth. Its authority, ill-defined but none the less real, reflects the fundamental interdependence of its members and rests at bottom on their inability to stand alone and on their common will to pursue together common aims. In this pursuit, they need more than purely national leadership. The rôle of the Assembly—and there can be no greater—is to afford the opportunity for the gradual assertion of such leadership. Where are the leaders whose intelligence and sympathies will be sufficiently broad, whose constructive imagination sufficiently powerful, and whose eloquence sufficiently inspiring to shape into one policy the unexpressed but universally felt hopes and desires of a war-weary humanity, slowly but still steadily awakening to the consciousness of its fundamental unity and of its ideal oneness of purpose?

The world, the League, and the Assembly are still—are more than ever—awaiting such leaders, whom the present forms of national organization have, since Woodrow Wilson, failed fully to produce. May the press and the universities, so strongly represented in the present audience, succeed where parliaments and governments have heretofore failed, and may they, even if they cannot overnight beget or discover new world leaders, at least prepare public opinion to accept them when the gods of history allow them to appear on the scene of mankind!

THE SECRETARIAT

According to Article 2 of the Covenant, "the action of the League . . . . shall be effected through the instrumentality of an

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Assembly and of a Council, with a permanent Secretariat." The French text, "une Assemblée . . . . un Counseil assistés d'un Secrétariat permanent," indicates rather more clearly that the Secretariat was conceived to be an auxiliary body, intended to assist the Assembly and the Council.

The idea of a permanent secretariat seems to have been born of the experience gained during the war, notably by the British, in the organization and working of similar administrative bodies assisting the British committee of imperial defence, the war cabinet, and the various interallied councils.[10] Whatever its origin, it has turned out to be one of the most novel and most fruitful conceptions of the founders of the League. Its two fundamental characteristics were to be its purely administrative functions and its entirely international composition and spirit. It was to prepare and to carry out the decisions of the Assembly and of the Council, not to initiate nor to shape any policy of its own. The allegiance of its members was to be to the League only and not to the governments of the various states from whom they might be drawn.

Let us examine in turn these two aspects of the Secretariat, as it was established at the birth of the League and as it has developed since. As an administrative agency, the Secretariat was, from its inception, a very much more vital organ of the League than the language of the Covenant would lead one to suspect—and than most of its authors probably anticipated. This is due to two main reasons. It may be laid down, first, as a general principle that the relative importance of a civil service stands in inverse ratio to the stability and activity of the political authority it assists. Where governments frequently change and where ministers are more engrossed with extraneous than with departmental duties, as is the case in most parliamentary states, the civil service is the real power behind the throne. Where, on the contrary, as for instance in my own country, the government is very stable, the actual tenure of office of its members very long, and their duties more administrative than political, the civil service plays only a subordinate part.

[10] See P. Baker, in *Les Origines et l'Oeuvre de la Société des Nations*, quoted above, vol. II, pp. 21, 40 et seq.

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Now, if one may compare the Council and the Assembly of the League with national governments on the one hand and the League Secretariat with national civil services on the other, it is quite obvious that the balance of influence was at first in Geneva very heavily weighted in favor of the administrative as against the political organs. The League, especially during the first three or four years of its existence, was a novel and apparently rather insignificant instrument of international government. The states represented on the Council and in the Assembly at first, as we have seen, were inclined to send to Geneva men of minor importance who changed from time to time and for whom their intermittent League duties were never their main tasks. The government of the League was therefore a weak government. Its civil service, on the other hand, was correspondingly strong, all the more so as its members were very discriminatingly chosen, from an extremely wide field, for their ability and their devotion to the ideals of the League. In all minor matters, and even in several important ones, the functions of the members of the Council and of the Assembly consisted mainly in delivering speeches, in reading reports, and in voting resolutions which had been carefully drafted for them by the Secretariat.

During these first years, Council meetings might sometimes have been compared with the harmless pastime of children playing with their toy sailboats on the pond of a city park, the masterful children being the Secretariat and the cardboard admirals on board the boats the dignified and indolent representatives of the powers. As the League grew in importance, a gradual change came about. National governments, recognizing its possibilities, tended to send their most representative men to Geneva, to entrust their national civil services with the preparation of official instructions, and earnestly to discuss these instructions before League meetings. Accordingly, the pond became the high seas of the political world, the toy sailboats the super-dreadnaughts of national policy, and the bemedalled and beplumed but very passive admirals the real commanders in action. As a result, the part of the masterful children on the shore naturally became less decisive and more contemplative.

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My impertinent and doubly irreverent simile, for which I proffer my humblest apologies to the children no less than to the admirals, is of course much overdrawn. It will have served its purpose, however, if it has made clear how the growing importance of the League has affected the functions of the Council on the one hand and of the Secretariat on the other. What the Secretariat has lost, however, in immediate influence over vital League decisions, it has regained, on the other hand, through the increased scope of League action. It has gained also through the development and increased specialization and efficiency of the countless advisory commissions which now coöperate in the preparation of the resolutions of the Council and of the Assembly. The Covenant, it may be remarked, provided for a Secretariat to assist only these two major organs of the League. The advisory committees, except for the permanent military and mandates commissions, are a purely organic product of its evolution, having been provided for, not by its constitution, but solely by subsequent decisions. As a result of this evolution, almost every section of the Secretariat of the League has become the special secretariat of one or more advisory committees. Thereby the work of the Secretariat has been increased, in technical quality as well as in volume, far beyond the expectations to which a mere analysis of the Covenant might give rise.

The volume of work entrusted to the Secretariat can, of course, be measured only by indirect methods, all symptoms indicating, however, that it has regularly, and very considerably, increased in the course of the last seven years. Thus the number of documents dealt with by the Secretariat registry, the number of meetings held under League auspices and with the administrative assistance of the Secretariat, the statistics of correspondence and publications, all show a striking increase. The staff itself has also increased from 183 in 1920 to 467 in 1926; and in spite of the natural economy of effort which experience and routine must have assured, that increase is certainly not more than proportional to the enlarged scope and volume of its tasks.

The original conception of the Secretariat appears to have been that of an entirely international and impartial body. To place its

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international impartiality above suspicion, some of the authors of the Covenant at one time considered the possibility of calling upon a distinguished statesman from one of the smaller countries to organize and to direct it as "chancellor" of the League of Nations. This idea was abandoned in favor of the present arrangement before the final adoption of the Covenant. In view of subsequent developments, it is difficult to imagine how an independent chancellor, drawn from a small nation and deprived of the national backing of any particular government, could have secured and maintained the necessary authority over an international organization so far from universal in membership and so preponderantly dependent upon the good will of Great Britain and France as was the League of Nations during the first years of its existence.

It was clearly understood, however, from the start that the officials of the Secretariat were to be international civil servants, and not in any respect national delegates. This conception was very forcefully expressed in the report presented to the Council by the British representative, Mr. A. J. Balfour (as he then was), and adopted by that body at its meeting in Rome on May 19, 1920. The relevant passages of that report read as follows:

. . . . "By the terms of the Treaty, the duty of selecting the staff falls upon the Secretary-General, just as the duty of approving it falls upon the Council. In making his appointments, he had primarily to secure the best available men and women for the particular duties which had to be performed; but in doing so, it was necessary to have regard to the great importance of selecting the officials from various nations. Evidently no one nation or group of nations ought to have a monopoly in providing the material for this international institution. I emphasize the word "international," because the members of the Secretariat once appointed are no longer the servants of the country of which they are citizens, but become for the time being the servants only of the League of Nations. Their duties are not national but international. . . . . I shall propose that no member of the Secretariat, during his or her term of office, shall accept any honor or decoration except for services rendered prior to the

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appointment. The reasons for this proposal are fairly clear. . . . . The members of the staff carry out, as I have explained, not national but international, duties. Nothing should be done to weaken the sense of their international allegiance; the acceptance of special marks of distinction or favor, either from their own or from any other country, militates, in our view, against the general spirit of the Covenant."

This view was fully shared by the Secretary-General himself, who, in a memorandum submitted at the same session of the Council, declared: "The members of the Secretariat act, during their period of office, in an international capacity, and are not in any way representatives of their own government."

As an almost necessary consequence of this conception of the Secretariat, the leading officials of the League were, at first, drawn, not from the ranks of the national diplomatic services, but quite deliberately from other walks of life. Of the four under-secretaries appointed in 1920, for instance, none was a professional diplomat. Today, three out of four of them are. Although still theoretically responsible to the Secretary-General alone, they, as well as many other recently appointed officials, were all chosen in close consultation with the governments of their respective countries.

That a man who has begun and probably intends to end his career in the diplomatic service of his own country should not consider himself to be loaned to the League for purposes not solely international, while temporarily occupying a position of political importance to which he has been appointed on the express recommendation of his own government, is more than one may expect of human nature. And that a Secretariat largely constituted of men thus seconded by their governments should still be held to be entirely impartial when dealing with questions affecting the prestige and interests of their respective countries is more than common sense will admit. It is impossible, therefore, not to note the evolution which has taken place in this respect in the structure and spirit of the Secretariat in the course of the last years.

The famous decree by which the government of one of the principal states members of the League officially and expressly

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asserted its unconditional authority over the citizens of that state holding international positions is but one external symptom of that evolution. The position thus adopted by that government with a measure of frankness which is not, in my eyes, the unloveliest trait of its general policy, is perhaps not very different from that more discreetly assumed by others. So long as that position remains unchallenged by the League as a whole, it will be very difficult, to say the least, to consider all members of the Secretariat as entirely above the suspicion of national partiality in their international functions.

If one must note, not without regret, this evolution of the Secretariat, one should neither overlook the circumstances which have determined it nor exaggerate the disadvantages and the dangers of the present position. The fact that certain governments have brought increasing pressure to bear on the Secretariat is a proof of the growing political importance they attach to the League. In so far, it is the symptom, however unwelcome in itself, of a very welcome development. Furthermore it is obviously conducive to prompt and easy international coöperation if the governments called upon to coöperate are represented in Geneva by officials who enjoy their full confidence. This confidence they are, of course, the more likely to enjoy if appointed on their express recommendation. In a certain respect, the change which has come about in the relative importance of the national and international functions of the Secretariat is a tribute paid to what I have called elsewhere the League to promote international coöperation by what I have termed the League to prevent war.

In the field of contentious political debate, the absolute international independence and impartiality of members of the Secretariat is clearly much more important than in that of non-contentious activities. As the latter field has been tilled by the League with far greater success than the former, it is not surprising that there has been a trend in favor of another type of plowman. The sociologically-minded historian will readily detect here an example of the function influencing the development of the organ.

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It was originally intended by many that the main duty of the League should be to prevent war by settling political conflicts on the basis of justice. If and when the League shall, with confidence and energy, again give this item the first place on its program of action, the demand for a Secretariat exclusively composed of officials as unbiased and as purely international in their loyalty as human nature will permit will doubtless again arise. Meanwhile it should be noted that in at least one of the very rare cases in which contentious issues vitally involving the political interests of great powers have come before the League, the Secretariat officials of the interested nationality have remained in the background. The case to which I refer is the Mosul dispute between Great Britain and Turkey, in the consideration of which the place of the British Secretary-General at the Council table was taken by his French deputy.

It should finally be noted also that, as the League grows more universal in membership and the Secretariat more representative in its international composition, the disadvantages and dangers of national bias on the part of the individual officials grow less. To be sure, justice in international relations is not to be defined as the mere mathematical resultant of divergent national claims. There is no doubt, however, that the chances of justice in the world are greater when all divergent claims are presented with equal force than when some alone are urged and others ignored for lack of advocates to press them. After the perhaps impossible ideal of an international civil service whose members would all be inspired solely by the pure love of international justice, the next best thing is therefore a Secretariat in which all national claims are fairly and freely represented. In this respect, also, the admission of Germany into the League and of a considerable number of Germans into the Secretariat should make for greater, if not necessarily for ideal, justice in the consideration of international affairs.

The Advisory Commissions

Besides the Council, the Assembly, and the Secretariat, the other major organs of the League are the advisory committees,

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the International Labor Organization, and the Permanent Court of International Justice. Of these I shall say but little, not because there is little to say, but on the contrary because the detailed study of their organization and development would take more time and space than I can spare.

The advisory committees I regard as the most symptomatic structural product of the League's evolution. As aforesaid, the Covenant itself provided for only two such organs, the permanent Military Commission and the permanent Mandates Commission. The pressure of circumstances, however, has led the Council to surround itself with a whole army of international experts divided and subdivided into a large number of divisions, brigades, regiments, and battalions. Almost half of the recently issued "Report to the eighth ordinary session of the Assembly of the League on the work of the Council, on the work of the Secretariat, and on the measures taken to execute the decisions of the Assembly" is devoted to the activities of these advisory bodies.

In the spring of this year an investigation was made in the Secretariat as to the number and average duration of meetings held under the auspices of the League during the years 1920 to 1926. Although these figures include the sessions of the Council and of the Assembly, they of course relate mainly to meetings of the various advisory bodies, and they may therefore not irrelevantly be quoted in this connection. They are as follows:

Statistics Regarding the Number of Meetings Held Under the Auspices of the League During the Years 1920–1926

Year	Number of meetings held	Average number of days the meetings were in session
1920	23	10.00
1921	37	8.43
1922	47	5.74
1923	67	6.82
1924	86	7.00
1925	94	5.77
1926	105	5.54

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What do these facts and figures point to? They have but one significance. The League of Nations, created essentially as a political institution to prevent wars between nations, has in fact become the great administrative agency for the promotion of voluntary international coöperation between them in time of peace. The technical advisory committees, which multiply in number and specialize in function from year to year, are the structural expression of a world need.

Divided into separate units for purposes of political self-expression, humanity is, economically and socially, one great organism. As its component parts become more conscious of their interdependence, this organism tends to express its unity by means of other than political institutions. In the present state of civilization, there is in this respect a fundamental contradiction. Politically, nations seem to be striving apart, and never have they been more insistent on their sovereign rights as independent entities. Economically and socially, however, they are being drawn closer and closer together by forces which are ever growing more irresistible and of which they are growing ever more conscious. Through its technical organizations and activities, the League is seeking to reconcile these otherwise incompatible tendencies. It is striving to overcome the obstacles which the dogma of national sovereignty has placed along the road of human evolution. It is thus promoting voluntary coöperation between those whom frontiers divide, but whom common aims and needs unite.

The higher the political barriers, the more imperious the necessity of international coöperation. But the closer and more continuous international coöperation becomes, the more irksome and the less indispensable the high political barriers will doubtless in time become. Thus, checked in its frontal attack on the citadel of war by the as yet invincible forces of national sovereignty, the League is by means of its technical bodies executing a vast flanking movement around and against it. This movement is slow and its achievement undramatic, but its eventual success seems assured, unless mankind would deliberately prefer poverty and stagnation in a state of potential war to well-being, fraternity, and progress in international security.

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The International Labor Organization

Of all the numerous technical institutions of the League, the International Labor Organization is the most important, as it is by far the largest. In fact, under the inspiring leadership of the fiery director of the International Labor Office, its independence and its size have become such that it cannot properly be dealt with as a mere part of the League structure, but calls for special study. I would here note only that, in its evolution, it has met with the same difficulties as the rest of the League and that it is struggling to overcome them by resorting to similar methods.

It was intended primarily to improve social conditions the world over by gradually levelling them up to the standards of the most advanced nations. In the drafting, the signing, the ratification, and, above all, in the effective application, of its labor conventions, it has constantly been battling against the forces of national egotism. Without, of course, abandoning this, its main task, it has tended more and more to enlarge the field of its coöperative and non-contentious activities. It has thus become a great international research institution. By ascertaining the facts of industrial life and progress the world over, and by disseminating their knowledge by means of its countless publications, it is attempting to build up a more enlightened public opinion. Thus it hopes that the obstacles which stand in the way of the achievement of its main purpose of international legislation may little by little be overcome.

The Permanent Court of International Justice

The Permanent Court of International Justice is the last of the organs of the League to be considered here. It is, in my opinion, in many respects the greatest, and would, of course, also demand an independent study. I can but briefly outline its history and note the evolution in its functions which, perhaps partly unforeseen at the time of the drafting of the Covenant, is doubtless due to the same general causes which have so strongly influenced the development of the other organs of the League.

Article 14 of the Covenant, which called for the creation of the Permanent Court of International Justice, reads as follows:

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"The Council shall formulate and submit to the members of the League for adoption plans for the establishment of a permanent court of international justice. The court shall be competent to hear and determine any dispute of an international character which the parties thereto submit to it. The court may also give an advisory opinion upon any dispute or question referred to it by the Council or by the Assembly."

The Council, at its second meeting, in February, 1920, decided to appoint a committee of ten jurists for the purpose of preparing the plans mentioned in the first sentence of this article. These jurists met at the Hague in June and July, 1920, and agreed on a draft statute which, amended by the Council in October, 1920, and by the first Assembly, was unanimously approved by the latter body on December 13, 1920. This statute having come into force before the second Assembly, the Court was elected on September 14 and 16, 1921, and on January 30, 1922, it met for its first session.

The most important change proposed by the Council and reluctantly accepted by the Assembly was the suppression of the compulsory jurisdiction with which the jurists had wished to endow the Court. Although the principle of compulsory jurisdiction seemed to meet with the approval of the majority of the delegates of the Assembly, it was opposed notably by the representatives of France and Great Britain as contrary to the Covenant. It was accordingly sacrificed on the altar of unanimity. As a concession to the partisans of the extension of the Court's powers, its jurisdiction was rendered optionally compulsory, i.e., compulsory in juridical matters as between those states which once for all accepted it as such. Of this possibility sixteen states have availed themselves up to date: nine[11] in 1921, four[12] in 1922, one[13] in 1923, and two[14] in 1926.

Accordingly, it would seem, first, that the principle of compulsory jurisdiction is more popular among the minor states than

[11] Bulgaria, Denmark, Haiti, Netherlands, Norway, Portugal, Sweden, Switzerland, Uruguay.

[12] Austria, China, Finland, Lithuania.

[13] Esthonia.

[14] Abyssinia, Belgium.

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among the great powers, and, secondly, that it is not gaining ground very rapidly. It should be noted, however, that its progress cannot be fairly measured by this standard alone, as it may be, and has been, promoted also by other means. Thus every recent year has witnessed an increase in the number of bilateral and multilateral conventions providing for compulsory recourse to the Court. As a result, a large section in the field of international relations is today already placed under its legal guardianship. If we consider the scores of international agreements which provide in the last resort for the compulsory jurisdiction of the Court—the mandates, minority, Locarno, arbitration treaties, and the host of technical conventions—if we consider the thousands of possible disputes which may arise over their interpretation and application, we will note with some surprise that the Court has been called upon to decide only nine cases in the course of the last five years. For this apparent anomaly, there are at least two excellent reasons.

In the first place, resort to the Court, the *ultima ratio* in peaceful international relations, is provided for only if negotiations and attempts at conciliation have failed. Now in spite of certain glaring failures, one should never overlook the fact that diplomacy almost invariably succeeds in dealing with current international affairs. Secondly, almost any negotiated, and therefore willingly or reluctantly but always freely accepted, solution is preferable to the costly and uncertain decision of a court. This is true in international relations still more than in private business. Judicial decisions are, or at least should be, imperative. If they seldom give complete satisfaction to the victors, they rarely fail to produce resentment in the vanquished. The Permanent Court of International Justice may therefore very well have assured the negotiated settlement of several disputes by the mere fact of its existence and the consequent threat of its possible intervention. For both these reasons, friends of peace should not deplore its relative inactivity.

Moreover, this inactivity has not been as marked as it would appear if the rendering of judicial decisions were alone considered. The Court, as is well known, may also be called upon by the

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Council and the Assembly to give legal advice. As a matter of fact, this consultative function has been more freely exercised than the other. Up to date, the Court has delivered advisory opinions in thirteen different cases. This predominance of the consultative over the purely judicial functions of the Court is extremely significant. It is still another symptom of what is, in my view, the main characteristic of the League's evolution since its birth. Here, as on every other point on which we have touched in this study, we see the League developing its voluntary and coöperative activities at the expense of its coercive functions.

In the present stage of international relations the League may successfully influence the policy of its member states by advice, persuasion, and emulation. It apparently cannot yet impose, and certainly has not yet imposed, its collective will on any recalcitrant member. The balance between international solidarity and national sovereignty is still too heavily weighted in favor of the latter. In other words, we are still in the first stage of the transitional period of world history, of which the creation of the League may be said to have marked the beginning. The center of gravity of political power is still almost completely in the capitals of the individual states members of the League, and not in Geneva.

If humanity is to be spared a relapse into the dark ages of national extermination through international strife, the present and future centuries must witness the gradual shifting of this center of gravity. As in the past the establishment of national sovereign states alone put an end to armed conflicts between rival clans, cities, and provinces, so in the future are permanent international peace and real security difficult to conceive unless the collective will of mankind be endowed with the power of overriding that of its constituent national groups. This ultimate goal is indeed still very far distant. The foundation of the League of Nations, however, is nothing if not a first momentous step in that direction.

Conclusion: The Functions of the League

So much for the evolution of the League, that is, of its structure, its anatomy. To consider with equal detail the development of

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its activities, its physiology, would require more time and space than we can here devote to the subject. We can the more readily dispense with this discussion since what we have noted with respect to the changes undergone by the organs of the League has already indicated the general trend of the evolution of its functions. A few general remarks may therefore suffice in conclusion.

In various publications I have examined the functions of the League under the three headings of the execution of the peace treaties, the promotion of international coöperation, and the prevention of war. The comments which this system of classification has aroused in various scientific journals confirms my belief that it is not only convenient but on the whole also sound. I shall therefore adhere to it here.[15]

It is in the execution of the peace treaties that the enlargement of the League's membership has had its most decisive effects. When the League was born, at the beginning of 1920, its Council found itself entrusted with the execution of several very important measures relating notably to minorities, mandates, the Saar basin, and the free city of Dantzig. The Council, at that time, was, with the sole exception of the Spanish ambassador in Paris, entirely made up of representatives of the victorious powers. These powers had imposed the treaties of peace on the vanquished and had, at the same time, excluded them from the League. Under such circumstances, it is not surprising that the spirit in which the Council went about this, its first important business, was hardly that of a disinterested and impartial magistrate.

As one after another of the vanquished joined the League, as Sweden, in 1922, was elected to the Council, and as finally Germany, in 1926, was admitted both to the League and to the Council, a gradual change for the better took place in this respect. Although that evolution has not yet reached its natural conclusion, it is certain that, to mention only two examples, the administration of the Saar and the protection of minorities are

[15] See *La Politique de la Suisse dans la Société des Nations*, translated into German as *Die Politik der Schweiz im Völkerbund* (Coire and Leipzig, 1925), and *International Relations as Viewed from Geneva* (New Haven and Oxford, 1925).

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today being carried on in a more equitable and less vindictive spirit than was the case in 1920. As was to be expected, it is in this field that the influence of Germany in the League has been most noticeable and the intervention of her representatives at the Council table most active and most effective.

If permanent peace can only be based on justice and if justice in international relations, as elsewhere, demands that fair and impartial treatment be measured out to all concerned, then the recent evolution of the League of Nations in the execution of the treaties is tending in the direction of permanent peace. The goal, although not yet attained, is now in sight. The sooner it is reached the better, not only for those at whose expense the treaties were drawn up and for their authors, but especially also for the League itself, to whom the war bequeathed, as a most unwelcome and onerous legacy, the duty of settling its estate.

In the field of international coöperation, as we have already seen, the League is performing a very useful, a very varied, and an ever increasing task. Its main achievements here would seem to lie in the economic sphere. In this sphere the list of the services it has rendered to humanity is already very long and very honorable. May it suffice to recall the reconstruction of Austria and of Hungary, as well as the more recent feats in Greece and in Bulgaria. The list has recently been lengthened by the addition of the successful Economic Conference in May, 1927.

Economic progress in international affairs can be promoted only through the combined efforts of individual enterprise, state action, and League coördination. Of the three members of this team, no one will dispute that the League has, since its existence, pulled at least its full share of the load. If all states were wise and courageous enough to follow the advice they have received from the League, especially in Brussels in 1920 and in Geneva in 1927, the world in general and Europe in particular would soon be out of the thorny economic jungle in which they have been plunged as a result of the war.

The record of the League in its efforts to prevent war, its third and most important task, is, alas, not so brilliant. Doubtless it

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has indirectly done much to promote peace by more fairly executing the peace treaties and by promoting international coöperation. Doubtless, also, it has directly done no less to promote peace by promoting publicity and arbitration in international relations. But it would be a bold, a very superficial, or a very dubious friend of the League who would pretend that in the matter of the pacific revision of obsolete treaties and in the field of security and disarmament, Geneva has not grievously disappointed the world.

Article 8 of the Covenant, adopted in 1919, provides that "the members of the League recognize that the maintenance of peace requires the reduction of national armaments." When we realize that today, after nearly eight years of investigation, study, and debate by the Council, the Assembly, the Permanent Military Commission, the Temporary Mixed Commission, countless special committees, sub-committees, and conferences, the powers have failed to bind themselves to carry out this pledge, or even to agree on a plan of reduction of armaments, and when they still show the greatest reluctance to arrive at a conclusion on a plan which would aim merely to limit their armaments, that is, to maintain them at the present level, it requires more official optimism than I can muster to declare complacently that reasonable progress has been made toward the solution of a very difficult problem. It must be frankly admitted that here we are faced with a real failure—a failure more disquieting, as I see it, in its causes than in its immediate consequences.

The main results of this failure are a continued burden of taxation for all concerned and a continued, and perhaps increasing, state of international suspicion. But unfortunate and dangerous as these are, the lack of security which explains, if it does not completely justify, the ineffectiveness of all previous efforts toward disarmament would seem more unfortunate and more dangerous still. Nations may refrain from disarmament for any one of three reasons: the desire to maintain their authority over discontented subjects of the state at home or abroad, the will to extend it at the expense of their neighbors, or finally the fear of encroachment and aggression from without. Of these three

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factors, which doubtless all play some part in preventing disarmament today, the last is certainly the most important.

The main justification of national armaments is, therefore, the feeling of national insecurity. Nations feel insecure because they do not trust their neighbors and because, distrusting them, they do not and cannot as yet rely on the League as an institution able and willing to protect them in case of need. Dispel this international suspicion, and the protection of the League becomes both easy and unnecessary. Create confidence in the protection of the League, and international suspicion becomes both less real and less dangerous.

To dispel international suspicion and to create confidence in the protection of the League are consequently the two fundamental methods of promoting disarmament. Both have been and are being applied, but neither as yet with very great success. As long as the nations, insisting on their ultimate right to be a law unto themselves, refuse to accept unconditionally the supreme authority of a world commonwealth, they will remain a threat one to another and therefore a danger to themselves.

The League of Nations is a timid and still only half-conscious effort to establish this supreme authority. If we were to base our present attitude and our forecasts on a comparison between the League as it is today and as it would be if its authority were unquestioned and universal, we might well lose hope. But if, more wisely, we compare the world today with the League such as it is and as it is growing daily, with the world as it would be without the League—as it was without the League ten years ago—then our generation should be filled with gratitude for the past and with confidence, courage, and determination for the future.

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NOTES ON ADMINISTRATION

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A Needed Supplement to Home Rule Charters. Before the movement for municipal home rule, all cities in America received their organic law from the legislatures of the states. The majority of our cities are still governed by such codes. Both charters and municipal codes contain the two fundamental features of all organic law, a grant of power and the establishment of machinery for its exercise. Municipal codes are usually explicit, leaving comparatively little to administrative discretion and conferring ordinance power of but secondary importance on local councils or boards. It is possible to make frequent amendments to modify this law to meet changing urban needs, since the state legislature has full authority to make these changes and convenes in annual or biennial sessions. The greater number of these modifications arouse little interest, many are merely procedural; but whether of major or minor consequence, amendments can usually be secured in a comparatively easy and inexpensive manner.

The drafting of a home rule charter introduces the new problem of allocating power between the charter itself and the legislative or administrative agencies it creates for the government of the city. The city must decide where it will lodge authority for the exercise of all the home rule power it is granted or assumes. The charter becomes to the city what the constitution is to the state, and we find similar problems of separating from the organic law the provisions we wish to give only statutory authority.

It was customary at one time to stress the distinction between constitutional and statutory law as resting on the organic nature of the provision. Should it deal with the character of the government and the agencies of authority, or should it merely embody regulations having to do with the exercise of governmental powers? Was the law in question, to use the words of Bryce, a work of conscious art, the result of a deliberate effort on the part of the state to lay down once for all a body of coherent provisions under which its government might be established and conducted?[1] But modern constitutions have departed from this principle and have included regulations for the sole reason that, when embodied in the fundamental law, they are beyond the reach of the legislature to change them. Consequently, a distinction more in accord with the

[1] *Studies in History and Jurisprudence*, I, 127.

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modern practice in constitution-drafting rests upon the method of amendment or repeal. The legislature may modify statutory, but not constitutional, law. The latter almost uniformly requires a referendum.

The problem of what to include in a state constitution or a city charter, then, is often answered by the process determined upon for its alteration. Those laws which it seems wise to entrust to the continued approval of the legislatures or councils are embodied in statutes or ordinances, while those which must be removed from such control find a place in the constitutions or charters. But there are laws for which neither of these codes seems appropriate. In the main, these are minor regulatory provisions relating to the legislative or administrative power itself. Their inclusion in the constitution or charter is suggested by the desire to remove them beyond the power of the law-making body to repeal or alter them. The dilemma is caused by the inappropriateness of using the system of amending the constitution or charter to effect their change.

The compulsory referendum is the usual process by which constitutions and home rule charters are amended. This is heavy artillery. It is well adapted to register public opinion if such exists. On matters too technical for people to understand, or where interest is local rather than general, or where there is a confusion of issues, it is unsatisfactory. Neither the men nor the money to get this somewhat cumbersome machinery under way is forthcoming; nor can the people be relied upon for a wise verdict if such issues are submitted to them. Simplification of the process of constitution or charter amendment is not the proper solution. The referendum is a suitable method of amending the basic provisions of the organic law, but not the minor regulatory provisions. In consequence, when these latter are included in the constitution or charter they tend to remain rigid and fixed. With respect to them, the document is practically unamendable.

This analysis suggests the need of a third body of law with neither the rigidity of the constitution or charter on the one hand nor the flexibility of the statutes or ordinances on the other. The place such a code might fill with respect to state constitutions has been suggested by Professor W. F. Dodd.[2] The need for a similar code for home rule cities has not as yet been so evident, chiefly because even charter cities have not had complete home rule and a large body of state laws is still applicable to them. In fact, these cities have been governed by three codes, i.e., the

[2] *The Revision and Amendment of State Constitutions*, Chap. V.

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charter, the state statutes, and the ordinances and regulations of local councils and boards. But a step in the direction of creating a body of laws between charters and ordinances is noted in the provision of the charter of the city of Cincinnati for an administrative code. While the subject-matter is of too limited a nature to meet entirely the need under discussion, there are provisions between the charter and the ordinances which are changed, not by resort to the referendum, nor by a mere majority vote in council, but by increased majorities in that body.

The Cincinnati charter of 1926 is the result of the third attempt at charter drafting which this city has made. In each case a different solution was found for the problem of amending what had been the minor provisions of the municipal code. In 1914, a commission of fifteen, after a year's study, submitted a draft which included all the features it was thought desirable to remove from control of the council. In many respects, this was an excellent document; but it was not approved by the people, who were reluctant to abandon the provisions of the municipal code. Three years later, the advantages of a home rule charter were better appreciated, and the work of a second commission was approved and became the charter of the city. The 1914 draft had been criticized as too voluminous. This one could be carried in a vest pocket, though, since it included by reference the entire municipal code, it was probably the longest charter in the country. The commission was divided on the issue of whether the Ohio municipal code should be subject to amendment by council, that is, whether it should have the status of the charter or of the ordinances. The draft adopted was prepared by a nationally known attorney for special interests, who explained to each group separately that it accomplished its particular desires. The legal complications which followed this legerdemain formed the chief reasons why a new charter was needed.

The charter of 1926 was written by a commission of three and attracted little attention either during its preparation or during the election at which it was approved. The commission seized the horn of the dilemma opposite from the choice of its predecessors by allowing the state laws to govern until changed by the council. Except for the provisions of the rather short charter and certain laws incorporated by reference, all legislative power that the city can assume is vested in a council of nine. And, since the city has a manager form of government, the council controls the administrative officers as well.

The commission intended to provide for a body of laws to stand between the charter and the ordinances. Since this pertained largely to

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departmental organization, it was referred to as an "administrative code." Time did not permit the drafting of this administrative code simultaneously with the preparation of the charter; but arrangements were made for submitting it at a later date. Although adopted by a mere majority vote in the council, it is amendable only by a three-fourths vote. Unfortunately, the scope of this code was limited by the language of the charter, which apparently defined it as "a complete plan of administrative organization of the city government." Consequently the code, as it has been adopted by the council, is little more than a plan of departmental organization, and does not fully meet the need for such a body of laws as has been described above.

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Electoral Administration in Chicago. ". . . . At about 6:30 P.M., the same gang returned to the barber shop, had the officer leave the immediate room, and the same man again approached me and insisted that I take the money. Inasmuch as he had specific instructions to see that I leave the polling place, he again tried to place the money in my pocket, but I returned it and told him I would not take it. He had me in one corner of the polling place and told me that I must take my hat and coat and get out, and then asked me where I had put my hat and coat. Then another member of the same gang approached me and told me that I must take my hat and coat and go. Seeing the position that I was in, I thought it would be best that I leave the polling place and report this incident immediately to your committee. When I left the polling place I put my hand into my pocket and there found the currency which he tried to have me take. I found that there were two $5.00 paper bills. I immediately took my automobile and reported this incident to your committee, who in turn referred me to Mr. Maguire of the election board, where I related my experience. The $10.00 was turned over by me to the Bar Association. . . . . "

The foregoing is a report by a watcher from the Chicago Bar Association for the election of November 2, 1926. It is one of many reports that come in from precincts all over the city at any important election. Yet it must not be supposed that every ward and precinct in Chicago is corrupt. The reports of newspapers have exaggerated a bad situation until to many it seems as if every Chicago election is accompanied by wholesale gun-play and slugging. In most of the precincts of Chicago honest elections are held and no voter is molested. In a few precincts

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conditions are as bad as they could possibly be. In a number of others conditions are bad because of the ignorance of the voters and the judges and clerks of elections. Out of Chicago's fifty wards, there are about ten which are wholly or partly known as the "bad lands." The following is a summary of conditions as observed by students of the political science department of the University of Chicago at elections from 1923 to the present.

Although the law forbids electioneering within the polling place or within one hundred feet thereof—which includes, of course, the display of candidates' posters, badges, literature, or other political paraphernalia —there is general violation of this prohibition. The most common form of violation of this rule is the wearing of party badges and buttons by workers, a practice which has become so common that in the minds of many election judges it has ceased to be a violation of the law. The actual soliciting of votes is not so common, but in a few precincts it goes on without hindrance inside the polling place. Marked sample ballots are sometimes displayed on the walls of the polling place, while in a few instances lithograph pictures of candidates have been found pasted on the windows.

The law provides that a judge must initial the ballot immediately before handing it to the voter. Obviously it is intended that the judge shall use his own initials. But cases have been found in which the judge has put down the initials of the voter! Judges have been known, in hundreds of cases, to initial the ballots during the counting—a practice which might result in throwing out the vote in whole precincts. In one primary election thousands of votes were thrown out because the ballots were uninitialed.

Any voter claiming to be unable to read the English language, or any voter physically unable to mark his ballot, may vote upon taking an oath of illiteracy or disability. The precinct judges administer the oath and assign two election officials of different political faith to aid the voter. The actual procedure usually is for the voter to come into the polling place with a precinct worker, who explains that the voter needs assistance. Thereupon some handy man about the polls is directed to assist. Very often the designated assistant enters the voting booth, leaving the voter outside, and marks to suit himself. Hundreds of people, literate and physically able, get assistance, and presumably get their pay besides. There is no remedy for this situation except to require a literacy test.

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The plague of honest election officials is the very frank, good-natured voter who breezes in, takes a ballot, and insists upon marking it in the open before the judges, clerks, and assembled citizens. He means well, but he is violating the law. In certain precincts of the First Ward (the realm of "Bathhouse John") there might as well be no voting booths. The writer was bodily ejected from one precinct of this ward because he objected to the use of the clerks' table in lieu of the voting booth. In certain West Side precincts voters stroll in, take their ballots, walk past the voting booths, and disappear through a back door, accompanied by a party henchman. Evidently a conference is held over the marking of the ballot; several minutes later the voter emerges with his ballot marked and folded. A glance into the mysterious back room will show that it is a billiard parlor where refreshments and voting space are ample. In the election of 1924 there were cases where children came in to get ballots for parents who were alleged to be sick or busy. In one or two cases they got them. At times, voting outside the booths has been made necessary by the length of the ballot; crowds have accumulated to such an extent during rush hours that election officials have permitted people to vote anywhere within the four walls of the polling place.

The crucial time at any election comes during the counting of the votes. Thousands of errors result at this stage from the fact that judges and clerks, tired out after twelve hours on duty, are physically unable to do justice to the job. One look at an Illinois ballot for a presidential year will convince the most skeptical that accurate counting falls little short of the miraculous. In 1924 the election clerks and judges in certain precincts did not finish counting until six or seven o'clock on the morning following the election. Even honest election officials decided to estimate rather than count the Progressive votes of that year.

Yet there are precincts in the Twentieth Ward where no attempt is made to count a single ballot. The captains of such precincts assure everyone that they have lived in the district for years, that they know every voter—in particular, their innermost political thoughts. In such places the ballots are strung on a wire, put in a bag, the tallies made, and the results reported twenty minutes after the closing of the polls. That is efficiency—of a certain kind! And in such sections it is not wise to protest. If you do, you may find yourself under arrest with the prospect of being tried by one of the two judges who are the bosses of the ward.

It goes without saying that referendum ballots should be voted and counted. In a score or more of precincts the election officials never

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notice them. In scores of other precincts the voters will not bother with them. It is impossible to give with any accuracy the number of precincts in which referendum ballots are not counted, but it is safe to say that the neglect of these ballots is one of the most common of the graver abuses. From precinct after precinct reports come in that only as an afterthought has attention been given to the referendum ballots, and even then only an estimate of the result is secured. Certain referenda elicit a popular response, such as prohibition and boxing propositions. Most of the questions, however, involve bond issues which to thousands of voters appear to be of no concern.

The practice of allowing others than election officials to participate in counting ballots has become the custom in over half the precincts. No one but a judge is permitted by law to handle a ballot, but any willing soul on the premises now takes active part in the count, even to the extent of handling the ballots. This naturally opens the door for every kind of irregularity and error. In the counting, fours become sevens, sevens fours, and twos threes; the ordinary imagination may conjure up the results of such mathematical jugglery.

The precinct election officials are appointed by the board of election commissioners of Chicago. They are recommended for their positions by the precinct captains. Both parties are represented in a precinct, the Republicans having a majority of the officials in half of the city's precincts and the Democrats in the other half. In certain wards it is quite generally known that collusion exists; in such places there is no check upon irregularities except such as the watchers provide.

A watcher is not the most welcome person in any precinct, but in the "rough-neck" wards he is made to feel the uncertainty of this mortal life more keenly than elsewhere. When he presents his credentials from the county judge's office he may be told that they are "no good." Some weaken at this first onslaught. If the watchers are women they may be treated with all kindness. They are given comfortable chairs far over in one corner where they can see nothing, they are given candy, they are engaged in diverting conversation; and when the count is beginning to grow interesting they are asked very courteously if they are not tired from their long hours of watching, and if they would not like to be taken home in Mr. So and So's car which is now waiting outside. Sometimes they go. All kinds of threats are made to the men watchers, and unless they are accustomed to bullying they surrender. In two or three precincts, to surrender is the part of wisdom. Fortunately, the number of such outlaw precincts is decreasing.

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Mr. Edmund K. Jarecki, the present county judge, who is supervisor of the elections in Cook county, has done excellent work in improving Chicago's election system. He has given all coöperation to the efforts of the University of Chicago, the Bar Association, and the women's clubs. Yet certain drastic changes in the laws are necessary to bring about farther improvement. Such changes will include a different basis of selection for precinct election officials, a shorter ballot, a literacy test, and perhaps voting machines. Some of these changes are now being urged at Springfield.

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FOREIGN GOVERNMENTS AND POLITICS

EDITED BY WALTER J. SHEPARD

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Parliamentary Government in Japan. The past year of Japanese politics has witnessed several developments in parliamentary government, prominent among which are the contest between the privy council and the cabinet, the question of the reform of the Peers, and the reorganization and growth of parties on the eve of the first general election under the manhood suffrage law.

During the greater part of this time, the Wakatsuki ministry was in office. The strong leader of the Kenseikai, Viscount Kato, who had been called to form a coalition cabinet after the fall of the super-party cabinet of Kiyoura, died in January, 1926. The succeeding premier, Reijiro Wakatsuki, was a man of less prestige. Even before Kate's death, the alliance of all parties in the House of Representatives was dissolved and the Seiyukai and the Jitsugyo Doshikai, or Business-man's party, assumed the rôle of opposition parties. In April, 1926, Wakatsuki attempted to win a majority in the House by an agreement with the Seiyuhonto, but the negotiations fell through, and thus the government remained somewhat at the mercy of that wavering group.[1] The government also bore the opprobrium of blocking an appeal to public opinion. The great achievement of Kato's premiership had been the passage of the universal manhood suffrage law of May, 1925, increasing the national electorate from three to twelve millions.[2] It had been confidently expected, by the liberal press at least, that the new suffrage law would soon be followed by the dissolution of the Diet and a general election. But the financial depression of the ensuing year tightened the purse-strings of the capitalists upon whom the old parties depend for campaign funds; besides, with the new "proletarian" parties bidding for votes, these parties have reason to fear the ravages of a general election. As dissolution continued to be postponed, however, a deluge of criticism

[1] At the opening of the 52nd session of the Diet on December 24, 1926, the strength of parties in the House of Representatives was reported to be as follows: Kenseikai, 165; Seiyukai, 161; Seiyuhonto, 91; Shinsei Club, 26; Jitsugyo Doshikai, 9; independents, 12; total 464. *Osaka Mainichi*, English edition, Dec. 25, 1926, p. 1.

[2] Cf. H. S. Quigley, "The New Japanese Electoral Law," in this REVIEW, XX, pp. 392–395.

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was showered upon the ministry for failing to advise the Throne give to the new elctorate an opportunity to express itself.[3]

The government, furthermore, was embarrassed by a series of scandals, notably the Bokuretsu picture case and the Matsushima licensed quarters case. In the latter affair, even the premier was accused of forgery. Fortunately, Wakatsuki was able to prove himself guiltless of complicity. His rival, Baron Tanaka, leader of the Seiyukai, was not so fortunate with reference to the secret military funds scandal. The Kenseiki is probably less involved in graft than the Seiyukai; nevertheless, the government was inevitably injured by the scandals of 1926, for the suspicion which rests upon all of the old parties in Japan today bears most heavily on whatever party happens to be in power. Wakatsuki maintained an admirable position of self-reliance in refusing to resign under the accusation of perjury; if medieaval ideas of honor compelled resignation under such circumstances, then any intriguer could wreck a ministry by preferring charges of perjury against the prime minister.[4] In the closing days of the year he again showed evidence of decision by threatening to dissolve the Diet after the Seiyukai and the Seiyuhonto entered into a hasty combination to overturn the Kenseikai ministry by a vote of censure regarding the Bokuretsu scandal.

The opposition parties projected the non-confidence resolution with the expectation that the Kenseikai cabinet, fearing a dissolution as much as the opposition, would resign and allow the Seiyukai and Seiyuhonto to seize office. The firmness of the prime minister, however, caused them to hesitate. Unfortunately for the prestige of Wakatsuki, the death of the emperor raised the question of the undesirability of a general election during the period of mourning. Thereupon the Seiyukai and Seiyuhonto pressed their advantage; and, soon after the convening of

[3] Said the *Osaka Asahi*, an independent paper of unusual literary and political merit: "In the last session, the Kato cabinet succeeded in carrying the manhood suffrage bill, and it is now manifestly its duty to see that a new House be organized by members returned in a general election conducted under the new law. It is therefore regrettable to note that what the cabinet is actually doing is just the opposite. Its sole desire seems to be to avoid a dissolution." Quotations from other papers published in the vernacular are given in the *Japan Weekly Chronicle*, Jan. 7, 1926, p. 14.

[4] At the height of the controversy occurred the well-known incident when a wooden coffin containing a dagger, suggesting hara-kiri, was carried to the official residence of the premier. Cf. *Japan Advertiser*, Nov. 10, 1926, p. 1. It was reported in the press that Wakatsuki's decision against resignation was taken on the advice of the Genro. *Ibid.*, Nov. 26, 1926, p. 2.

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the 52nd Diet, they introduced their vote of censure.[5] Public opinion, as represented in the press, rejoiced at the prospect of a speedy dissolution, claiming that a general election soon after the funeral of Emperor Taisho would not constitute disloyalty to the imperial household.[6] To the indignation of the liberals, however, Wakatsuki side-stepped dissolution by an imperial rescript proroguing the Diet for three days, during which time he held a secret conference with the leaders of the Seiyukai and the Seiyuhonto. As a result, on the reassembling of the Diet, the non-confidence resolution was withdrawn.[7]

The parties explained their action by the announcement that it would be unseemly for the Showa era to begin without a budget. But the newspapers were almost unanimous in denouncing the avoidance of dissolution as a trick of the parties to hush up the discussion of the scandals and to cheat the people of the benefits of the manhood suffrage law.[8] It was insinuated that Wakatsuki paid a high price for his new lease on office, even to promising his resignation at the end of the session. At any rate, the opposition collapsed. Early in March came the announcement that the Kenseikai and the Seiyuhonto had agreed on a coalition, with the expectation that the Seiyuhonto would enter the cabinet and that the resources of the two parties would be pooled in the next general election. The party situation in the Diet was thus "stabilized."

The economic condition of the empire, however, soon precipitated a new political crisis. Japan has not recovered from the financial crash of 1920 which followed the over-expansion of industry during the

[5] *Kwampo* (Imperial Gazette), Jan. 21, 1927, p. 419.

[6] Cf. leading articles from the vernacular press quoted in the *Japan Chronicle*, Jan. 20 and 27, 1927.

[7] *Kwampo gogai* (Imperial Gazette, extra edition), Jan. 26, 1927, p. 80. Cf. *Kwampo*, Jan. 25, 1927, p. 503.

[8] "We do not know with what words to express our despair of representative government in Japan. It is more than mysterious indeed that the two opposition parties, who on the very day of the secret conference with the premier had resolved to impeach the government in the most severe terms as utterly unfit to administer national affairs, should have suddenly changed their minds and agreed to make a political truce during the national mourning and the first year of the new emperor's reign. Common sense forbids us to believe in any shred of sincerity in the party leaders of this country." *Osaka Mainichi*, Jan. 23, 1927, p. 4. Cf. leading articles from the vernacular press in the *Japan Advertiser*, Jan. 26, 1927, p. 7; and *Japan Chronicle*, Feb. 3, 1927, pp. 116–117. Independent members in the House of Representatives bitterly denounced the secret compromise among the leaders. *Kwampo gogai*, Jan. 26, 1927, pp. 82–87.

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World War. The reluctance of financial leaders to accept drastic retrenchment, and the added burdens produced by the earthquake in 1923, are ascribed as the chief causes for this depression. At the same time, the government has been criticized as partly to blame because of failing to devise an adequate reserve system, continuing its overgenerous subsidies to struggling industries, and permitting semi-governmental banks to continue their reckless careers. In the spring of 1927 the Wakatsuki cabinet yielded to the pressure of financial circles to render governmental aid to the Bank of Japan and the Bank of Taiwan, the latter being heavily involved with the affairs of the well-known importing house, the Suzuki Shoten; while both banks held large quantities of emergency paper issued at the time of the earthquake. Accordingly, two bills were introduced in the Diet, one calling for an issue of government bonds to the amount of 100,000,000 yen to be oaned to the Bank of Japan, the other for a bond issue of 207,000,000 yen to meet the earthquake emergency paper.[9]

The House quickly passed the earthquake bills, but in the Peers suspicious members insisted on having the names of government-favored banks holding the worthless paper.[10] Inadvertently, Finance Minister Kataoka let slip the name of the Watanabe Bank. The next day, a run on that institution compelled the directors to close its doors. This failure dragged down other banks. The Peers gave their consent to the bills after the government had agreed to the appointment of a readjustment commission to straighten out the affairs of the Bank of Taiwan.[11]

Following the adjournment of the Diet, the situation rapidly became more serious. The impending failure of the Bank of Taiwan threatened

[9] The explanation of the bills by the minister of finance can be found in the *Japan Weekly Chronicle*, Feb. 10, 1927, p. 152.

[10] It was alleged that on this occasion Minister Kataoka gave the House of Peers information that he refused to the House of Representatives. Especially irritating to the Seiyukai was his flippant remark that the House could not keep secrets. The affair gave rise to two resolutions of censure and a stormy debate in which Hamada Kunimatsu declared that the minister's action was a defiance of the bicameral system, since, under the constitution, the lower house should have priority in all financial legislation. *Kwampo gogai*, Mar. 13, 1927, p. 612. Another member accused the government of "fawning upon the upper chamber, which represents the interests of the privileged classes." The resolutions were defeated. *Kwampo gogai*, Mar. 13, 1927, p. 614; Mar. 20, 1927, p. 710. (The translations of quotations from the *Kwampo* and Japanese periodicals and books contained in this article were made by Mr. Sterling Takeuchi, of Evanston, Ill.)

[11] *Kwampo gogai*, Mar. 24, 1927, p. 341.

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a general panic, and, as a relief measure, the Wakatsuki ministry decided to loan the bank 200,000,000 yen. Faced with the alternative of summoning an extraordinary session of the Diet to vote this loan or else issuing an emergency imperial ordinance, the ministry chose the latter. By resorting to the ordinance power, the cabinet avoided possible defeat in the Diet; but now it had to reckon with the privy council.

Article 8 of the constitution of 1889 provides that in times of urgency when the Diet is not in session the emperor may issue ordinances having full force of law.[12] There is nothing in the written constitution expressly requiring that an emergency imperial ordinance be submitted to the privy council, but of course, as is theoretically the British practice, this procedure has always been followed. Indeed, the imperial ordinance of April 28, 1888, organizing the privy council declared that this body should deliberate and present its opinions to the emperor for his decision on "important imperial ordinances," as well as disputes in the interpretation of the proposed constitution, amendments of the constitution, projects of law, and treaties.[13] Furthermore, Hirobumi Ito, the draughtsman of the constitution of 1889, in his well-known *Commentaries*, declared that the council should "serve as the highest body of the emperor's constitutional advisers" and implied that it should be consulted before the issuance of imperial ordinances.[14] Such was the practice before the

[12] Article 8 reads: "The emperor, in consequence of an urgent necessity to maintain public safety or to avert public calamities, issues, when the Imperial Diet is not sitting, imperial ordinances in the place of law. Such imperial ordinances are to be laid before the Imperial Diet at its next session, and when the Diet does not approve the said ordinances, the government shall declare them to be invalid for the future." In Article 70, the constitution further provides: "When the Imperial Diet cannot be convoked, owing to the external or internal condition of the country, in case of urgent need for the maintenance of public safety, the government may take all necessary financial measures by means of an imperial ordinance. In the case mentioned in the preceding clause, the matter shall be submitted to the Imperial Diet at its next session, and its approbation shall be obtained thereto."

[13] W. W. McLaren, *Japanese Government Documents* (Tokyo, 1914), p. 128. The Japanese ordinance power is not copied after the British. It is evidently based on the Saxon constitution of 1831. Cf. Nakano, *Ordinance Power of the Japanese Emperor*, p. 188; Shimizu, *Teikoku Kenpo*, p. 37; Ichimura, *Kenpo Yoron*, p. 517.

[14] "When an emergency ordinance is to be issued or a state of siege is to be declared, or when some extraordinary financial measure is deemed necessary to be taken, the opinion of the privy council is to be sought before the measure is carried out, thereby giving weight to the measures of the administration in the matter. In this way, the privy council is the palladium of the constitution and of the law. Such being the importance attached to the functions of the privy council, it is the established rule that every imperial ordinance, on which the advice of the privy

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constitution of 1889 was promulgated, and such has continued to be the practice, although with the growth of party government what was originally an organ of the emperor's direct rule has become a check upon the cabinet.

Accordingly, the Kenseikai cabinet prepared to submit its draft ordinance to the privy council. On April 14, Wakatsuki had an audience with the emperor, followed by a visit to Baron Kuratomi, the president of the council. Three days later, the council met in the presence of the emperor at the Akasaka Palace with the cabinet in attendance. The debate was acrimonious.[15] The proposed relief for the Bank was arraigned as unsound finance and as a violation of the constitution if given without the consent of the Diet. One of the councillors, Count Miyoji Ito, went further, declaring that the ministry not only had hoodwinked the people but also had attempted to deceive the emperor. He ended with an attack upon the government's policy in China. The vehemence of the councillors carried the day, and the ordinance was rejected. The ministry appears to have anticipated this rejection by a unaminous decision reached at an earlier hour to resign in such an event. Thus rebuffed by a "body of old men," and amid the gibes of the press, the Wakatsuki ministry left office.[16]

Never in recent years has the privy council in the presence of the emperor rejected an imperial ordinance drafted by the cabinet, much less caused a ministry's downfall. The propriety of the action was widely discussed in the press. It was generally held that the council stood on solid ground in contending that the spirit of the constitution required the convening of an extraordinary session of the Diet before the burdensome financial obligation recommended by the ministry was assumed. It is probably true that this approval of the council's decision was largely due to the extreme unpopularity of the government's policy

council has been asked, shall contain a statement of that fact in the preamble to it. The privy council is to hold deliberations only when its opinion has been asked for by the emperor, and it is entirely for him to accept or reject any opinion given" *Commentaries*, trans. by Miyoji Ito (Tokyo, 1889), pp. 98–99.

[15] Full accounts of this debate are in the *Tokyo Asahi*, *Osaka Mainichi*, *Japan Advertiser*, April 18, 1927.

[16] The *Tokyo Nichi Nichi Shimbun*, an independent paper, commented: "The Wakatsuki government has at last been overthrown. It has been ruined by one single blow of the privy council, which has been jeered at by the public as a prehistoric relic no better than an old curio. Not infrequently disputes have arisen between governments and the privy council, but we know of no ministry which suffered such ignominious reverse." *Japan Advertiser*, April 19, 1927.

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of aiding the banks at the expense of the taxpayers. On the other hand, liberal newspapers roundly condemned Count Ito's disregard of constitutional proprieties.[17]

The successor to Wakatsuki was quickly chosen. A few hours after the premier had handed the resignation of his ministry to Emperor Hirohito, the imperial chamberlain was on his way to Kyoto to consult the only living Genro, Prince Saionji. In the meantime, the press was confident that the Elder Statesman would follow popular opinion, refuse an intermediate government, and name a party leader.[18] It was expected that despite the military scandal of 1926, the Genro would recommend Baron Tanaka, the leader of the Seiyukai. The expectation was not disappointed. According to newspaper reports, the imperial chamberlain returned to Tokyo on the morning of April 20, and reported to the emperor, who thereupon summoned Baron Tanaka to form a ministry.[19] Within a day, the new premier had completed his cabinet, and in a very short time the new ministry decided to secure an imperial ordinance establishing a moratorium and then to summon the Diet.

[17] The *Tokyo Asahi* declared: "It is extraordinary that a privy councillor accused the premier in the presence of His Majesty of his blunders. The question put before the privy council to examine was the measure for an emergency imperial ordinance connected with the relief for the Bank of Taiwan, but the council daringly referred to China policy and discussed the responsibility of ministers. This is evidently in contradiction to the guiding principles of the imperial constitution." *Japan Advertiser*, April 20, 1927, p. 7. On the other hand, the *Jiji Shimpo*, the leading conservative independent paper, in commenting on the proposed ordinance, said: "The government deserves harsh accusation for the attempted abuse of the imperial constitution because its course is interpreted as defying the authority of the legislative body and the right of the people. The reckless measure was rejected by the privy council, and as a consequence the cabinet was compelled to resign. This incident will remain an undesirable precedent, for which the Kenseikai ministry will be answerable." *Ibid.*, April 19, 1927, p. 6.

[18] The *Jiji Shimpo* said: "Who will be recommended to the Throne as suitable successor? We are convinced that the adviser will honestly and honorably observe the genuine principles of parliamentary government in submitting his counsel to the Throne. As long as fundamental principles be adhered to, the appearance of an intermediate government is unlikely." *Japan Advertiser*, April 19, 1927, p. 6.

[19] The press stated that after hearing the report from Prince Saionji, the emperor conferred with Count Makino, the lord keeper of the seal, and Dr. Kitokuro Ichiki, minister of imperial household. *Japan Advertiser*, April 20, 1927, p. 2; *Japan Chronicle*, April 20, 1927, p. 1. In 1924 the former of these officials, together with Count Hirata, the then lord keeper of the seal, was severely criticized as an "associate genro" and responsible for the appointment of the super-party government of Kiyoura. Cf. the press dispatch in the *Osaka Mainichi*, Jan. 9, 1924, p. 1; also leading articles of the *Tokyo Yorodzu*, *Kokumin*, *Chuo*, and *Yomiuri* quoted in the *Japan Advertiser*, Jan. 11, 12, 15, and 16, 1924, p. 5.

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The 53rd session of the Diet began on May 3 and sat but five days. The Seiyukai ministry faced the House without a majority, for the Kenseikai-Seiyuhonto alliance remained intact.[20] The opposition, however, did not block the government's proposal to extend 200,000,000 yen in relief to the Bank of Taiwan, nor even 500,000,000 yen to the Bank of Japan. The indemnity bills of the Tanaka cabinet were in line with the Kenseikai policy. But it was necessary for the Kenseikai to save its face by an attack on the privy council, and this took the form of a resolution in the House of Representatives impeaching the council for rejecting the emergency ordinance.[21]

In opening the debate on this unique motion, Nakano Masatake referred to it as a *dangai-an*, or impeachment resolution, and admitted that it was unprecedented in the history of the House.[22] But, he contended, the action of the council had been unconstitutional—an intervention in parliamentary government—and the occasion required a censure from the "representatives of public opinion." The cabinet were practical men of affairs enjoying the confidence of the House and better able to judge of the expediency of financial measures than a council of old retired men. The criticism of the cabinet's foreign policy at a session of the council summoned for the sole purpose of passing upon an imperial ordinance to relieve the Bank of Taiwan was *ultra vires*, for the council had power to give advice only when asked by the emperor, and, at this time, no advice on foreign policy had been sought. A clever thrust at the loyalty of the privy council was made in

[20] The *Osaka Mainichi* (May 3, 1927, p. 1) gave the party alignments as follows: Kenseikai, 164; Seiyukai, 159; Seiyuhonto, 67; Shinsei Club, 26; independents, 19; Showa Club, 14; Jitsugyo Doshikai, 9; and 6 vacant seats; total, 464. The opposition could depend on about 242 votes coming from the Kenseikai, Seiyuhonto, and part of the Shinsei Club.

[21] The younger members of the Kenseikai and the Seiyuhonto at first demanded a petition from the House to the Throne. *Osaka Mainichi*, May 8, 1927, p. 1. This would have been permissable under Art. 49 of the constitution, which reads: "Both houses of the Imperial Diet may respectively present addresses to the Emperor." In a few days, cooler counsel prevailed, the attempt to drag the emperor into the affair was abandoned, and the *dangai-an* was accepted as a compromise. The text of this resolution read: "Whereas the former cabinet prepared an emergency imperial ordinance to prevent financial disturbances and maintain public order, and whereas the privy council advised the emperor contrary to the cabinet's draft proposal and thus precipitated a great financial panic, be it resolved that this House disapproves the action of the privy council as unprecedented." *Kwampo gogai*, May 8, 1927, p. 65.

[22] *Kwampo gogai*, Mar. 8, 1927, p. 65.

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the charge that Count Ito's open impeachment in the presence of the emperor of a minister who enjoyed the confidence of the emperor was an insult to the Throne. Finally it was charged that the fall of the Kenseikai government was the result of a conspiracy between the privy council and the Seiyukai.

On the other side, the government supporters contended that the privy council was the defender of the constitution and the highest advisory body to the Emperor, that it was consonant with the council's duty to advise against any procedure by a cabinet which they considered contrary to the constitution, and that the resolution was an unworthy trick of the Kenseikai designed to shift the responsibility for the financial panic from the Wakatsuki ministry to the shoulders of the privy council, whereas everybody knew that the run on the banks was caused by the indiscretion of former minister Kataoka. The most notable speech in opposition to the resolution was made by Ozaki Yukio, a liberal leader of the Shinsei Club, a member whose forty years of service in the House has made him a conspicuous figure. Ozaki advised the withdrawal of the resolution on the ground that the Wakatsuki government had committed a serious error in surrendering office. The ministry should have petitioned the emperor for the resignation of the councillors because of their interference with parliamentary government. If the petition were denied, then was the proper time for the ministry to resign. Because of its abdication, therefore, the Wakatsuki ministry must share responsibility for the financial crisis along with the privy council.[23]

The impeachment resolution was carried by a majority of sixteen over the combined opposition of the Seiyukai, Jitsugyo Doshikai, Showa Club, and the Shinsei Club.[24] On the following day, both the House and the Peers passed the indemnity bills. Thereupon the Diet was adjourned, while the press criticised the government for the enormous burden placed on the treasury and for the postponement of dissolution.[25]

[23] *Kwampo gogai*, Mar. 8, 1927, pp. 69–70.

[24] For the resolution, 210; against, 194; making a total of 404. *Kwampo gogai*, May 8, 1927, p. 77.

[25] The press, in general, supported the impeachment resolution. The *Tokyo Nichi Nichi* branded the act of the privy council as a menace to democracy and supported the impeachment as a demand for a limit to the influence of the council over practical politics (*Japan Advertiser*, May 7, 1927, p. 5). The *Hochi Shimbun*, a paper friendly to the Kenseikai, at first favored the resolution as a vindication of responsible government, but later charged the resolution to party tactics, while blaming the Wakatsuki government for resigning instead of asking the emperor to dismiss the privy councillors (*Ibid.*, May 5, 10 and 11, 1927, p. 5). The conservative *Jiji Shimpo* opposed

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The debate on the impeachment resolution has raised the question of the future of the privy council. Limited to twenty-six members, all veteran statesmen, jurists, or soldiers, the council has tended to be more conservative than the cabinet, especially party cabinets. In fact, by its check upon the cabinet, the council on numerous occasions has controlled governmental policy; its decisions are openly announced in the press as the course that the government must follow. For years, cabinets have chafed under a condition so inconsistent with responsible government.[26] Nevertheless the relations between the cabinet and the privy council have traditionally been more subtle than the public clash of last April. There were sharp disputes with Yamamoto in 1913, with Kato in 1922, and even with Kiyoura in 1924, but it has not been the practice for the council in the presence of the emperor to reject an ordinance of the cabinet. On the contrary, the council has usually, through its president, suggested informally to the premier any amendments advised by its members. This appears to have been the course that the majority of the council desired to pursue in the recent controversy.[27] The insistence of the Wakatsuki ministry upon a vote in a

the impeachment and condemned the Wakatsuki ministry for not asking the emperor to dismiss the privy councillor in question (*Ibid.*, May 7, 1927, p. 5). The *Chugai Shogyo*, a paper influential in commercial circles, held that the council is the supreme advisory board attached to the Throne and constitutionally independent of the legislature. Hence the House of Representatives is not in a position to indict it, and such action was nothing less than disloyalty. It admitted, however, the danger of the council to parliamentary government, and proposed that its organization be reformed (*Ibid.*, May 8, 1927, p. 8). The *Miyako* approved the resolutions but condemned any appeal to the Throne as tending to drag the emperor into politics. Reorganization of the council was urged (*Ibid.*, May 8, 1927, p. 8). The *Osaka Mainichi*, in its issue of May 11, condemned the resolution as useless and scored the Wakatsuki government for resigning without an appeal to the emperor and thus missing an opportunity to establish a precedent against the interference of the council.

[26] For this reason the Kenseikai have been particularly antagonistic to the council. In 1926, when commenting on Wakatsuki's nomination of Dr. Kuratomi and Dr. Hiranuma as president and vice-president of the council, the press congratulated the premier for nominating men of deep learning who would be least liable to interfere with responsible government. Cf. leading articles quoted in the *Japan Weekly Chronicle*, April 22, 1926, p. 469.

[27] In the press it was reported that Baron Kuratomi, president of the council, on the evening of April 15, called at the official residence of Premier Wakatsuki and urged him to abandon the imperial ordinance and to summon the Diet. The premier, after consulting the cabinet, refused to recede, and the cabinet at the same time decided to resign if blocked by the council. *Japan Advertiser*, April 16, 1927, p. 1; and *Japan Times*, April 16, 1927, p. 1.

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plenary session may be construed as due to a determination to bend the council to the ministerial will or else to a desire to provoke an excuse to resign.

As to the future of the privy council, two liberal jurists, Sakuzo Yoshino and Ryutaro Nagai, have recently expressed the opinion that this relic of the bureaucratic age should be relegated to a position as innocuous as the British privy council.[28] The problem is how to do this. Both jurists hold that it is unwise to abolish the council by an amendment of the constitution. In no land is reluctance to alter the fundamental law so extreme today as in Japan. Professor Nagai proposes that the council should be restricted by an ordinance limiting its powers merely to imperial household affairs. All administrative rules, ordinances, and treaties should be left in the hands of the ministry, and any question as to the abuse of the constitutional powers of the ministers should be settled by the House of Representatives.[29] Sakuzo Yoshino holds that the cabinet should adopt a practice of resisting the council; if the council advises the emperor to reject a decision of the cabinet, the ministers should ask the emperor's approval of their measures pending the reference of the question to the Diet, and resign only if the emperor shows his lack of confidence in the cabinet.[30] By this practice the council would automatically be reduced to a status comparable to the present board of audit. Thus both jurists, like Ozaki, look upon the reform of the council as a step in the removal of the checks upon the House of Representatives, and urge that reform be accomplished by the slow process of practice and precedent rather than by a violent constitutional amendment uprooting the council.

On the whole, the liberals of Japan appear to expect more opposition to responsible government from the Peers than from the privy council. As a coördinate branch of the legislature, the upper house enjoys a more

[28] Essays by both jurists appeared in the *Chuo Koron* ("Central Review"), No. 473, June, 1927, pp. 55–63 and 103–117. Sakuzo Yoshino resigned from the faculty of the Imperial Tokyo University in 1924; he was for a time in the service of the Chinese government, and is now political contributor to the *Tokyo Asahi*, and one of the founders of the Shakai Minshuto. Ryutaro Nagai is a professor in Waseda University, parliamentary counsellor of the Foreign Office, a member of the House of Representatives from Kanazawa, and a member of the Kenseikai.

[29] *Chuo Koron*, No. 473, p. 62.

[30] *Chuo Koron*, No. 473, p. 111. It should be noted that the standard treatises on constitutional law are agreed that the emperor should consult the privy council regarding ordinances, but that there is no obligation to follow its advice. Cf. Uyesugi, *Teikoku Kenpo*, p. 341; Shimizu, *Kenpo Hen*, p. 551; Ichimura, *Kenpo Yoron*, p. 521.

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logical position than the council, and its jurisdiction is not so easily overcome by custom and usage; while the curtailment of its powers would require a constitutional amendment. At present, one of the stumbling-blocks to coöperation between the two houses is lack of party uniformity. None of the parties of the House of Representatives are found in the upper house. The imperial princes, of course, belong to no party; but the majority of peers are divided between the Kenkyukai, Koseikai, and Koyu Club.[31] It is necessary, of course, for the cabinet to come to terms with these parties. Sometimes representatives of the largest party, the Kenkyukai, are given portfolios; sometimes their support is secured without this arrangement. In June, 1926, Premier Wakatsuki added to the unpopularity of the Kenseikai cabinet by giving a seat to a peer from the Kenkyukai.[32] When General Tanaka received the command to form a ministry, the Kenkyukai, through its leader, Prince Konoe, was reported to have asked for cabinet posts, but an agreement was reached regarding the party's support notwithstanding their non-representation in the government.[33] This "agreement" was evidently effective, for in the extraordinary session in May the Peers offered no opposition to the financial measures of the cabinet.

In the past, the Peers have not scrupled to govern Japan through a ministry of their own members. The last attempt to maintain a super-party government was the Kiyoura cabinet of January to June, 1924, which had the support of the upper chamber but the bitter opposition of an overwhelming majority in the House. Ever since the humili-

[31] At the opening of the 52nd session of the Diet the party alignment in the Peers was as follows: Imperial princes, who belong to no party, 18; Kenkyukai, 154; Koseikai, 67; Koyu Club, 42; Doseikai, 29; Sawakai, 27; Mushozoku (Independents), 26; Jun Mushozuku (Pure Independents), 43; total 406. *Japan Weekly Chronicle*, Dec. 30, 1926, p. 781. Cf. *Osaka Mainichi*, Dec. 25, 1926, p. 1.

[32] The *Tokyo Nichi Nichi* branded the coalition as "treason to the cause of parliamentary principles" (*Japan Advertiser*, June 4, 1926, p. 8). The *Osaka Asahi* said: "The liaison of the Kenseikai with a bloc in the House of Peers for the purpose of prolonging the cabinet's existence is contrary to the principles of parliamentary government" (*Ibid.*, June 5, 1926, p. 7). Even the conservative *Jiji Shimpo* referred to the habit of the Kenkyukai to share in the spoils of office while evading responsibility (*Ibid.*, June 16, 1926, p. 7).

[33] *Japan Advertiser*, April 21, 1927, p. 1. There is evidence that the price of the Kenkyukai support was a promise by the Tanaka government to aid the Fifteenth Bank independently of other banks in difficulty (*Japan Weekly Chronicle*, commercial sup., July 14, 1927, p. 10; *Japan Advertiser*, Aug. 12, 1927, pp. 1–2). The failure of this bank, commonly called the Peers' Bank, would have ruined numerous members of the upper house who would have been compelled to pay up their unpaid shares.

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ating collapse of this government the Peers have pursued a more modest program. Indeed, in March, 1927, a resolution mildly reproving the Wakatsuki government was rejected by a vote of 183 to 56. A lively debate preceded this vote, in which it was contended that although the Peers had authority under the constitution to censure the government, nevertheless it was not consistent with the present development of the Japanese government to exercise this power.[34] Friction between the two houses, however, is inevitable, because of the Peers' power over money bills and the Peers' close scrutiny of these bills. As in British history, the entering wedge is the question of finance. On two occasions the government has introduced measures restricting the period allowed to the upper house for the examination of the budget, only to have them rejected by the Peers. Naturally much impatience is expressed in the lower house regarding the Peers' interference in financial legislation.[35]

The platforms of all the new "proletarian" and "peasants" parties contain planks calling for the reform of the upper chamber.[36] Likewise the new Kakushinto, a reorganization of the old Kakushin Club sponsored by Osaki Yukio, has come out for reform, even at the cost of a revision of the constitution of 1889. This party demands curtailment of the Peers' concurrent power over financial bills, reduction in the number of hereditary seats, and restriction of the sixty-six representatives of the highest tax-payers.[37] Small immediate results are expected, but, as the Japanese proverb says, "a journey of a thousand miles begins with one step."

The greatest obstacle to reform of the Peers is the lack of public confidence in the House of Representatives. In the past year this distrust has been increased by the secret compromise of the party leaders last January which blocked dissolution, by the scandals involving every

[34] Particularly noteworthy were the speeches of Dr. Kiheiji Onodzuka, Dr. Rikitaro Fujisawa, and Count Hirotaro Hayashi. *Kwampo gogai*, Mar. 25, 1927, pp. 391–403.

[35] In the 52nd Diet Mr. Yamaguchi Giichi (Seiyukai) used the following rather extreme language: "The people demand not a mere revision of the Diet law but a revision of the constitution itself in order to affect a complete reform of the House of Peers. They deplore the power that the Peers now exercise. Under the present arrangement even the manhood suffrage act will not give the people much participation in government. I believe we must have a radical reform of the upper house before we can secure a government truly based on public opinion—a really representative government." *Kwampo gogai*, Feb. 20, 1927, p. 281.

[36] Cf. the constitution of the Shakai Minshuto, the new Social Democratic Party. *Japan Weekly Chronicle*, Dec. 2, 1926, p. 664.

[37] *Japan Weekly Chronicle*, May 19, 1927, p. 551; June 9, 1927, p. 631.

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large party, and by the violent attempts in the lower house to suppress free speech by independent members.[38] Liberal opinion looks toward the new electorate as a means of purifying the lower house.[39] Indeed it would not be an exaggeration to say that the dominating fact in Japanese politics to-day is the manhood suffrage law. Under the act of 1919 there were 2,860,000 voters. The act of 1925 has raised the number to over twelve millions. Quite naturally, there has been a growing demand that the Diet be dissolved and the newly enfranchised voters allowed to participate in an expression of public opinion. As we have seen, the old parties have refused to bow to this demand. But under the four-year term, the time for a general election will automatically be reached in May, 1928, unless dissolution occurs before then.[40] In view of the

[38] The end of the 52nd session of the Diet witnessed one of the most violent scenes in the history of the House. Dr. Kiyose, a member of the Shinsei Club, attempted to bring up again the investigation of the alleged misappropriation of the military funds by General Tanaka, the leader of the Seiyukai. Members of the Seiyukai sprang upon the rostrum, beat and nearly strangled Dr. Kiyose, and tore up the stenographic notes of the proceedings. Cf. *Kwampo gogai*, Mar. 25, 1927, pp. 859–865; *Tokyo Asahi*, Mar. 25, 1927, p. 1; *Japan Weekly Chronicle*, Mar. 31, 1927, p. 367.

[39] In commenting on the attack on Dr. Kiyose in the House, the *Osaka Asahi* blamed the parties for protecting and screening their members who commit such outrages, and went on to say: "The existing parties are merely private factions, manufactured by a few leaders who are in possession of large election funds, so that the leaders and members of the party are in the same relations as the lord and vassals in feudal ages. Men who are at the beck and call of the leaders, and have certain amounts of election funds, are allotted to various constituencies, and on their being returned they are made use of for the purpose of carrying out the plans and schemes of the leaders, with the result that superior men are ashamed to rank with them and the parties tend to become, in an increasing degree, a rabble of mean and despicable men. Hence, such a scene as was enacted in the House of Representatives on the 24th ultimo, in which the very life of a member was in danger. Will the nation, patient as it is, put up with such a Diet as this much longer? It is to be feared that nothing but the new election law, in which manhood suffrage is embodied, will save the constitutional system from the crisis in which it is now placed" (Quoted in *Japan Weekly Chronicle*, April 7, 1927, p. 392). The *Osaka Mainichi* said: "By approving of lynching in the House, the Seiyukai is undermining the foundations of the Diet and, in consequence, the system of parliamentary government itself" (*Ibid.*). The *Hochi Shimbun* declared: "The secret proceedings of the three party leaders have left a legacy of interminable political unrest, and the action of a certain party which put down speech by violence has lowered the credit of the Diet, as a traitor to parliamentary government could only do. The political intelligence of the nation cannot endure much longer such a Diet and such a state of affairs. The situation can be improved only by the enforcement of universal manhood suffrage" (*Ibid.*).

[40] The last general election occurred on May 10, 1924. The House had been dissolved on January 31.

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coming election, attempts are under way to organize the new voters and a number of so-called proletarian and peasant parties have appeared. As was to be expected, the governmental attitude has been antagonistic, and in December, 1925, the inauguration of a new party launched by various labor unions and the Japanese Peasants' Union (Nihon Nomin Kumiai) was frustrated by the police. In the following March, however, the Japanese Federation of Labor (Nihon Rodo Sodomei) and the Peasants' Union succeeded in organizing the Rodo Nominto, or Labor and Peasant party.[41] The question of excluding communists from this party brought dissensions and secessions, with the result that in the late autumn of 1926, when dissolution of the Diet by the Kenseikai cabinet was expected, three other parties appeared.[42] The most conspicuous of these new parties represents an attempt by the intellectuals under the leadership of Professor Isoo Abe to win the support of the entire "unprivileged" class under the banner of the Shakai Minshuto, or Social Democratic party.[43]

These parties, with their vigorous and idealistic programs, have received favorable comments from the independent press, while the older

[41] An excellent account of the inauguration of the party under the presidency of Sujiyama Motojiro was published in the *Tokyo Asahi*, Mar. 6, 1926.

[42] The struggle between the right and left wings of the new parties—the same struggle that split the Second and Third International and has parted the ranks of workers in many countries—promises to divide the new voters of Japan for some time. It began in April, 1926, when the executive committee of the Rodo Nominto voted that the door should not be closed to communists. Thereupon the conservatives in the Peasants' Union withdrew and formed the Nippon Nominto, or Japan Peasants' party. On October 24 following, the Federation of Labor withdrew from the Rodo Nominto, leaving it in control of the radical labor unions and the rump of the Peasants' Union. The Federation, under the leadership of the veteran Bunji Suzuki, then joined with the intellectuals to form the Shakai Minshuto, which was formally inaugurated on November 20. At the same time a less conservative group of the Federation, under the leadership of Mr. Asabu, established the Nihon Ronoto, or Japanese Labor and Peasant party. Cf. the account by Bunji Suzuki, in the *Jiji Shimpo*, translated in the *Japan Weekly Chronicle*, Dec. 16, 1926, pp. 721–722; also a series of articles on "The Split in the Labor and Peasant Party" in the *Chuo Koron*, No. 467, Dec. 1926, pp. 105–135, and a similar symposium in the *Kaizo* ("Reconstruction") for the same date.

[43] For the platform of the party see *Japan Weekly Chronicle*, Dec. 2, 1926, p. 664; Dec. 16, 1926, p. 723. Professor Abe, for nearly thirty years a professor at Waseda University, is better known to Americans as the promoter of baseball among Japanese students. With Katayama Sen, he is one of the pioneers of socialism in Japan. In 1924 he founded the Japan Fabian Society.

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parties, of course, have viewed them askance.[44] In some quarters it has been assumed that the first election under the manhood suffrage act will result in a combination of all the old parties in a solid front against the more liberal newcomers. But, on the other hand, it has been pointed out that the old parties are unduly apprehensive, for the new parties will find progress difficult. Elections are expensive—averaging about 50,000 yen per candidate—and the new organizations have little financial support. The local elections under the suffrage act of 1925 have been followed with interest as furnishing some indications of what may be expected from the next general election; and, on the whole, it has been observed that the so-called proletarian and peasant vote has won comparatively small representation.[45] At the same time, there is a profound distrust of the old political parties, of their "scandals," extensive bribery, obligations to the privileged classes for campaign funds, and disgraceful violence in the Diet. The young parties have made a strong appeal for support as champions of clean politics. Early this year, Ozaki referred in the Diet to the increase of new parties among the voters as indicative of the disgust of the public with the corruption of the old parties.[46]

It is too much to expect that the manhood suffrage act will immediately result in the appearance of the two-party system based upon a division between the conservatives and the liberals or the old and the new. The Seiyukai and the opposition parties certainly are not divided by this distinction. The influential press, however, points to the multiplicity

[44] The important *Tokyo Asaki* welcomed the appearance of the Rodo Nominto with enthusiasm (*Japan Advertiser*, Mar. 7, 1926, p. 8). The *Miyako Shimbun* declared that the old parties were the venal puppets of the Kenkyukai, and added: "They must know that the newly enfranchised public, numbering more than ten millions, are rising to influence. They had better make friends of this great mass. Its influence will overpower the privileged classes. Its victory is fast approaching" (*Ibid.*, Oct. 19, 1926, p. 7). The *Osaka Mainichi*, after decrying the corruption of the old parties, praised Professor Abe's party as moderate, sane, and sound (*Ibid.*, Nov. 11, 1926, p. 7).

[45] In the first election under the manhood suffrage law in Nishisugamomachi, a suburb of Tokyo, three proletarian candidates were elected to the town assembly composed of thirty members (*Japan Advertiser*, Dec. 22, 1926, p. 1). In five municipal elections in Hokkaido the various parties won the following seats in the assemblies: Kenseikai, 78; Seiyukai, 33; Seiyuhonto, 4; Rodo Nominto, 4; and independents, 32 (*Japan Weekly Chronicle*, Oct. 14, 1926, p. 456).

[46] In a speech on the bill to limit campaign expenses. *Kwampo gogai*, Feb. 2, 1927, p. 160. Cf. the platform of the new Kakushinto sponsored by Ozaki. *Japan Weekly Chronicle*, May 19, 1927, p. 551. See also a speech by Hidejiro Nagata in the House of Peers. *Kwampo gogai*, Jan. 29, 1927, p. 63.

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of parties as a defect in the political structure and praises the traditional British two-party system as the parliamentary ideal.[47] For several years the House has been divided among three large parties and two or three small groups. These parties and groups waver, amalgamate, break up, and disappear as rapidly as their counterparts in some of the European systems. In December, 1926, the Seiyukai and the Seiyuhonto effected a combination to destroy the Kenseikai ministry; two months later, the Seiyuhonto was engaged in negotiation with the Kenseikai for a complete amalgamation, and in May, 1927, this was actually accomplished and a new party created, first known as the Shinto Club, and later as the Rikken Minseito.[48] The amalgamation was not completed without numerous desertions from the Seiyuhonto ranks. The Seiyukai captured most of the seceders. As the party in office, it has resources for winning new members.[49] While the platform of the new party is not a marked improvement on the colorless platforms of the old parties, nevertheless the appearance of the Rikken Minseito has been hailed by

[47] "From a political point of view the rivalry of two great parties is our ideal" (*Osaka Mainichi*, Dec. 11, 1926, p. 4). "Two powerful parties are particularly important for the political life of present Japan. Once that system be established on a solid basis, government will be assumed alternately and the political world will be permanently stable" (*Tokyo Nichi Nichi*, quoted in *Japan Advertiser*, April 27, 1927, p. 5). "Contests between numerous yet powerless parties is a constant menace to political peace. The worst result is frequent ministerial changes, causing political unrest to prevail. We have an instance in France in spite of her adoption of the English system. The two-party system is advisable for the national purpose of Japan" (*Jiji Shimpo*, quoted in *Ibid.*, June 3, 1927, p. 7). Similar sentiments are frequently expressed in the Diet. For instance, in the 52nd session, Dr. Fujisawa, in the House of Peers, said: "In the early years our parliamentary system tended to follow the two-party régime of England. . . . . The essence of a successful parliamentary government is to have one strong opposition party which will be prepared to take over the control of administration, thereby avoiding the present system of intrigue and secret compromise. This will eventually be accomplished in Japan by a sound constitutional development" (*Kwampo gogai*, Mar. 26, 1927, p. 391).

[48] The fall of his ministry in April, 1927, cost Wakatsuki the leadership of the new party. Mr. Tokonami, the leader of the Seiyuhonto, was likewise unavailable, inasmuch as it was discreet to give the amalgamation the appearance of a really new party unhampered by the old intriguing leaders. For a time, Baron Shidehara was the favorite candidate because his connection with the rich Mitsubishi promised a source of party funds (*Japan Weekly Chronicle*, May 19, 1927, p. 551). But eventually leadership went to Yuko Hamaguchi, a former finance minister and rival of Wakatsuki in the Kenseikai.

[49] Concerning alleged inducements in money offered by the Seiyukai to discontented members of the Seiyuhonto and Kenseikai, see *Japan Weekly Chronicle*, May 12, 1927, p. 552.

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the liberal press as a step in the direction of the much admired two-party system.[50] In the meantime, the Tanaka cabinet has prepared for the inevitable general election by a sweeping removal of governors in twenty-four of the forty-seven prefectures. When out of office, the Seiyukai preached decentralization, but the party is now charged, and perhaps justly so, with the intention of keeping the central authority intact for the purpose of controlling the elections and providing party spoils.[51]

In conclusion, it appears that the history of the last two sessions of the Diet indicates a steady progress away from the autocratic government of 1889 and toward the British parliamentary type. With the waning and disappearance of the old bureaucracy, clan intrigue, Genro and super-party government, the field is cleared for the struggle between the House of Representatives on one side and the privy council and the Peers on the other. Popular impatience at the checks upon the lower house is equaled by popular distrust of the political parties, a fact which may tend to retard the victory of the Representatives. In any event, liberal opinion in Japan, conscious of the transitional nature of present politics, looks toward constitutional development by means of custom and practice rather than by violent alterations in the fundamental law. Of course, much depends on the emperor. Profound respect for the Throne still pervades Japanese national consciousness. But the present emperor, Hirohito, the first sovereign to visit Europe, is a young man of modern ideas. With a liberal-minded monarch, the Japanese constitution has infinite capacity for progressive development.

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[50] For the platform of the Rikken Minseito, see *Japan Advertiser*, June 2, 1927, p. 1.

[51] The press almost unanimously stigmatized the gubernatorial changes as a piece of exceptional partisanship devised to afford employment for the *ronin* and to give the Seiyukai control over the prefectural elections in September and the general election next year (Cf. leading articles from the vernacular press in the *Japan Advertiser*, May 19 and 20, 1927). The independent *Tokyo Nichi Nichi Shimbun* pointed out that the Hara cabinet had heretofore held the odious record for the greatest number of dismissals, but its removals had totaled only thirteen (*Japan Weekly Chronicle*, May 26, 1927, p. 577). The *Osaka Asahi* urged popular election of the governors as a preventive in the future; but the *Jiji Shimpo* pointed out the dangers of a reform which went only so far as the election of governors, while leaving these officials under the supervision of the home minister. Indeed, this conservative paper demanded the more far-reaching reform of complete decentralization (*Ibid.*, p. 578).

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The Economic Background of China's Nationalist Movement.[52] The events of the past five years in China furnish abundant evidence of the economic background of politics. Hostility between British Hongkong and Chinese Canton may be said to date from the Hongkong seamen's strike of 1922, and it will be remembered that the Shanghai disturbance of 1925, with the resulting popular disorders in other parts of the country, arose out of a series of strikes in Japanese-owned cotton mills of the city. Moreover, the spectacular progress of the Nationalist movement during the past two years is due in no small degree to the widespread economic unrest produced by chronic civil war, interrupted communications within the country, depreciated currencies, unfavorable conditions in the factories, and steadily mounting price levels.

The third of Dr. Sun Yat-sen's "Three Principles of the People," on which the Nationalist movement as a whole rests, is concerned with economic conditions.[53] The first of the three principles is *Ming Zoh*, meaning a race or a people, and it is used in connection with the right of a people to exist on a footing of equality with other races or peoples. The prestige enjoyed by Soviet Russia in Kuomintang circles is directly traceable to the willingness of Russia to recognize this principle of *Ming Zoh*, thereby dealing with the Chinese as the Russians' racial and national equals. The second principle is that of *Ming Chueng*, the people's power, the people's rights, or political democracy. The last, and from the economic point of view most important, principle is that known as *Ming Sung*, the people's life, or, more properly, the economic livelihood of the people.

Dr. Sun himself was not an orthodox socialist. His teaching concerning the economic livelihood of the people is little more than a modernization of the time-honored words of Confucius, who mentioned "sufficiency of food" for the people as being one of the three tests of good government. To a degree, Dr. Sun was a state socialist, in that he favored state ownership and operation of the means of transportation and communication. He also advocated confiscation of the unearned increment in

[52] The author of this note was for several years a member of the faculty of St. John's College at Shanghai.

[53] Dr. Sun's views are set forth in considerable detail in his "San Ming Chu I," or "Three Principles of the People." So far as the writer knows, the book has not been translated into English. It covers about five hundred pages and contains occasional addresses rather than a consistent body of doctrine. A translation of Dr. Sun's short "Main Outline for the Reconstruction of the National Government," dealing very briefly with the major principles of the Nationalist movement, is to be found in the *North China Herald* (Shanghai) for January 22, 1927, p. 126.

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land values, the lending of state credit to local districts where native capital was lacking for the development of natural resources, and state aid in the matter of housing, road building, and industrial development. Since the death of the Kuomintang founder, the efforts of the communists within the party have been directed toward securing a vast extension of this limited program. It is even possible that the phenomenal recent success of the Kuomintang may be traced to the marked tendency to appeal for, and rely more and more on, the support of the artisan, apprentice, and coolie classes of the towns, and the farmers in the country. The great army of poverty stricken and illiterate coolies existing in every Chinese city has absorbed communist doctrine like so much alcohol, for they stood to benefit, temporarily at least, from any disorders, involving looting perhaps, which could be fomented by the radicals. They had literally "nothing to lose but their chains." It is beyond question that the wealthier classes among the Chinese have disapproved of this growing restlessness on the part of the working people quite as heartily as have the foreigners.

Wretched economic conditions in great industrial and commercial centers like Shanghai have provided fertile soil in which to sow radical ideas. While Shanghai is not China, the conditions there have been similar to those in other industrial centers like Hankow, Tientsin, Tsingtao, and Canton. Hours of labor in factories have been as long as twelve and fourteen, or even sixteen, for women and children, no less than for men.[54] Some of the factories observe Sunday as a weekly holiday, while more of them do not. Night labor for women and children is fairly common. The use of child labor is hedged about by only such restrictions as the factory owner himself is willing to observe, there being no government capable of enforcing general regulations. The child labor commission, appointed four years ago by the Shanghai municipal council (of the International Settlement) reported children to the number of 22,340 under the age of twelve years at work in the factories. Of these, 17,955 were girls. Child labor, of course, is not a new problem in China. But the use of child labor in factories raises grave social and moral problems of which the Chinese are only now being made aware.

The major grievance of the factory worker is not, however, that hours are long, or that sanitary conditions are bad, but that the cost of living has mounted more rapidly than the buying power of his weekly wage.

[54] There has been a marked recent tendency, due to labor union pressure, to limit the number of working hours to twelve, or even ten. During the past six months even the cry for an eight-hour day has been raised.

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The wholesale cost of rice may be taken as fairly indicative of the general increase in food prices, especially since rice constitutes the staple diet of most Chinese living in the Shanghai area. In 1900 the wholesale cost of rice was $3.50 per picul of 200 pounds. By 1911 it was $7.00; by 1916, $8.60; and by 1926 it had reached the unprecedented peace-time average of $17.60. The influx into Shanghai of country people seeking work in the factories has increased rents in the city to figures quite beyond the reach of the average wage-earner. A survey made early in 1926 by Mr. Thomas Tchou, an investigator for the industrial department of the national committee of the Y. M. C. A. in China, disclosed the fact that, even among the better classes of Chinese workers, as many as four families were living in tenements containing from 400 to 600 square feet of floor space. Men without families were found renting mere shelves in hostels for a monthly payment varying between 30 and 80 cents. In these hostels, gambling, opium-smoking, drinking, and social evils were prevalent. Mr. Tchou estimated that there must be (in 1926) at least 288,000 factory workers in Shanghai, about 30,000 rickshaw men, 50,000 wheelbarrow and wharf coolies, and perhaps 20,000 others engaged in various forms of transportation. The average income per male adult among these people was estimated to be from $10 to $15 per month, Chinese currency. Even when the wife and children worked, the family income would hardly exceed $20 per month.

The following figures bearing on the strike situation in Shanghai for the past year must be taken in conjunction with the situation suggested above. The monthly police reports of the International Settlement show strikes to the number of 156 between the first of May, 1926, and the end of January, 1927, an average of seventeen strikes each month.[55] Not fewer than 68 out of the total number were attributed to economic discontent, 48 were caused by friction within a factory or industry, 18 were classed by the police as sympathetic strikes, two or three were political rather than economic in origin, while the remainder resulted from a combination of these causes. The average number of strikers involved per month was 22,209, and the average number of working days lost per month was 169,814 for the nine-month period.

During 1926 the worst month for industrial disorders was September, when workers to the number of 32,523 were affected, and the total num-

[55] The figures are fairly, but not strictly, accurate. The monthly report does not always distinguish new strikes occurring in a particular month from those carried over from the previous month. An attempt has been made to eliminate this error. The number of working days lost during October, 1926, is not given.

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ber of working days lost was 482,292. Of considerable significance is the fact that, according to figures compiled by the health department of the International Settlement, the price of rice reached it highest level during the months of August and September. For August the average was $17.87 per picul, for September it was $18.15, and for October $18.08. During November the average fell to $16.51, with a consequent decrease in the number of strikes from 18 in September to 10 in October and 9 in November. During November only 5,068 workers were affected by strikes.

From December, 1926, to the end of March, 1927, evidences of industrial discontent increased, a situation bound up with the victorious northern advance of the Nationalist armies. A general strike, beginning February 19, was ordered by the Shanghai general labor union to celebrate the capture of Hangchow, the important capital of Chekiang province, by the southern military forces, and incidentally to embarass Marshal Sun Chuan-fang behind his lines. According to police estimates, the strike caused the loss of 488,000 working days, and at its height affected 124,500 workers. This included the staffs of the Chinese post office, the municipal electricity department, and the tramway companies, both Chinese and foreign. By February 22, the workers were drifting back to work, partly as a result of vigorous action by the Chinese defense commissioner in executing a number of radicals. At the end of the month all the strikers had returned to work. The strike in this case illustrates admirably the work of the "army in mufti," the plain clothes agitators and organizers sent ahead of the victorious Nationalist army to prepare for its coming while at the same time embarrassing its enemies.

A second general strike was called for March 20, to mark the imminent capture of Shanghai by the Nationalists. On this occasion, even the employees of the waterworks plant obeyed the strike order. For three days practically every important industry in Shanghai was at a standstill, and the number of workers directly affected was estimated at 161,000. In addition to this number, practically all shopkeepers suspended business for one day to welcome the incoming Southerners. While the vast bulk of the strikers returned to work on the 24th, as many as 25,000 were still celebrating at the end of the month. According to police estimates, the general strike involved the loss of 860,800 working days to operatives in public utility and industrial establishments alone. In addition, there were eighteen strikes unconnected with the general strike which brought idleness to 31,180 employees and caused the loss of 443,000 working days.

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In both major and minor strikes, agents, presumably attached to the general labor union, have not hesitated to employ methods of violence and intimidation where it suited their purposes to do so. Damage has been done to mill property, loyal foremen have been assassinated, and on at least one occasion an assault was made directly on a European manager.[56] In cases where the offending Chinese foreman could not be reached his family has usually been terrorized.

The industrial situation in Shanghai, as well as elsewhere within the treaty ports, is rendered particularly complex by the fact that many of the great cotton mills and other factories are owned and managed by foreigners, especially Japanese and British. In view of the conditions among the workers in these establishments—conditions for which, of course, the foreign managers are not entirely responsible—it is relatively easy for radicals to raise the cry that "Chinese labor is being enslaved by foreign capitalists." In this way the Nationalist movement is reinforced by the doctrine of the class struggle, and in this way also, the members of the left-wing Kuomintang have been able to enlist the active support of a restless and dissatisfied class of factory people. Other attempts, since 1911, to establish a government, have won varying degrees of support from merchants, bankers, and scholars. The present attempt is the first to appeal directly to the worker. As a result, the elements in the population formerly referred to by the learned official class as the *yu ming*—the stupid people—are now taking things definitely into their own hands with consequences that are certain to be far-reaching.

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Cabinet Changes in Germany since Hindenburg's Election. The election of Field Marshal von Hindenburg to the presidency in succession to Ebert in 1925[57] was at first interpreted by Republicans in Germany, and by many foreign observers, as a distinct political blunder. He was pictured as the very embodiment of pre-war Germany with its ultra-nationalistic and militaristic ideals. It was freely prophesied that all the labors of Marx and Stresemann, MacDonald and Herriot, which

[56] In the Shanghai provisional court (the successor to the mixed court) during March, the murderer of a forewoman in a Chinese mill confessed that a member of the general labor union had paid him $10 to commit the crime, and that he was to get $10 more on returning the borrowed pistol. He got, instead, a life sentence.

[57] For an account of this presidential election see the writer's article in the REVIEW for August, 1925.

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had held out the promise that Germany might soon be restored to good standing in the family of nations, would come to naught because of this new manifestation of German incorrigibility.[58] These prophecies, however, have certainly not been fulfilled. Hindenburg has thus far encouraged rather than opposed the efforts of Stresemann to reëstablish an understanding with the Allies, and has undoubtedly gained the approval of millions of Germans who fought bitterly against him during the presidential campaign.[59]

The frequent changes in the German cabinet during the past two years were caused by the nice balance between the parties of the right and left brought about by the Reichstag election of December, 1924.[60] There are eight party groups with considerable voting power; consequently a coalition of some kind is necessary in order to maintain a government. The two largest groups are the Nationalists on the right, with 110 members, and the Social Democrats on the left, with 130. These two groups, of course, stand for opposite principles; hence the parties between them must coöperate with one or the other in order to insure a Reichstag majority.[61] The four middle groups, viz., the People's party, the Center, the Bavarian People's party, and the Democrats, are, moreover, by no means in agreement. In matters of domestic policy, the People's party often finds itself close to the Nationalists, while the Democrats lean toward the Socialists. The Center, the members of which range all the way from conservatism to socialism, thus holds the balance of power. In matters of foreign relations, however, all of these four groups are inclined toward a conciliatory policy, and they have succeeded in carrying through the plans of Stresemann by the aid of the Socialists. In general it may be said, therefore, that each of the four cabinets since the beginning of 1925 has acted with the

[58] *Vorwarts*, April 9, 1925; *Germania*, April 15, 1925; *London Times* (weekly ed.), April 16 and 30, 1925. It should be stated, however, that soon after Hindenburg's election the *London Times* and other papers struck a more optimistic note about the effects of the election upon foreign affairs, and that a considerable number of English and American bankers and business men interpreted the election to mean, not a return to monarchy and renewed belligerency, but a return to sound principles of economics and law and order.

[59] See article in *Berliner Tageblatt* October 2, 1925 (the seventy-eighth birthday of Hindenburg), in which the president's loyalty to the republic is highly commended.

[60] See the writer's article in this REVIEW, May, 1925, p. 362.

[61] The strength of the various groups from right to left is as follows: Extreme Nationalist, 14; Nationalist, 110; People's party, 50; Center, 68; Bavarian People's party, 19; Democrat, 32; Socialist, 130; Communist, 45; other small groups, 25. Total, 493. *Berliner Tageblatt*, December 11, 1924.

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Nationalists in establishing conservative domestic policies, and with the Socialists in furthering German reconciliation with foreign nations, especially with the Allies. That this shifting policy has been unsatisfactory to both the Nationalists and Socialists goes without saying. It has seemed, however, the only method by which governments of reasonable stability could possibly exist, given the present political alignments of the Reichstag.

In January, 1925, Dr. Hans Luther succeeded in forming a cabinet consisting of four Nationalists, one representative of the People's party, one of the Bavarian People's party, two Centrists, one Democrat, and two members, including Chancellor Luther himself, who were classified as non-partisan. The admission of the Nationalists was brought about by the efforts of Stresemann, who had promised the Nationalists certain cabinet positions in return for their aid the previous summer in securing the adoption of the Dawes plan.[62] The Luther cabinet, in spite of Nationalist opposition, assumed responsibility for the negotiations that led to the Locarno treaties and Germany's subsequent entry into the League of Nations. This action, however, caused the Nationalist cabinet members to resign at the behest of their party caucus. Thus from October 26 to December 5, 1925, the cabinet consisted of a "rump" holding office only because of its understanding with the Socialists, who promised to aid the government in securing Reichstag approval of the Locarno treaties. The Luther government, in addition to its fruitful foreign policy, was responsible for several measures of economic significance. The cabinet resigned on December 5.[63] The Socialists opposed Luther on the ground that his domestic policies were altogether too conservative.

The resignation of the government was followed by seven weeks of feverish party negotiations during which various leaders tried to make up cabinet slates that would be supported by a Reichstag majority, only to find that at the last moment some party group, whose vote was necessary, would make new and impossible demands or fail to live up to its former promises.

On December 14 President Hindenburg asked Dr. Erich Koch, former minister of interior, and leader of the Democratic party, to form a government.[64] In a short time all the portfolios had been assigned. Ex-Chancellors Luther, Stresemann, Marx, and Muller had agreed to serve together, but in spite of this favorable beginning Dr. Koch's

[62] See *Berliner Tageblatt*, January 1–15, 1925.
[63] *Ibid.*, December 5, 1925.
[64] *Ibid.*, December 14, 1925.

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efforts proved in vain, for no platform formulation at all agreeable to the representatives of the more conservative parties could be made to satisfy the Socialists, who claimed that anything less than a thoroughgoing social reform program would only serve to drive their followers into the ranks of the Communists.[65] On December 18 it was agreed that the former cabinet should continue until after the holidays.

It was not till January 18, 1926, that a new cabinet was formed. Dr. Luther finally succeeded in making a combination that received Reichstag support. The second Luther cabinet was composed of three members of the People's party, Stresemann, Curtius, and Krohne; one member of the Bavarian People's party, Stingl; two Centrists, Braun and Marx; three Democrats, Kuelz, Reinhold, and Gessler; and Luther, nonpartisan.[66] The greatest difficulty came in connection with the ministry of the interior. For this position the Democrats first presented the name of Dr. Koch, while the People's party urged the selection of Dr. Curtius. The People's party and Bavarian People's party strenuously opposed Dr. Koch on the ground that he was really a Socialist, and left-wing elements of the Center opposed Dr. Curtius because they thought him too reactionary. Finally President Hindenburg brought the squabbling factions to their senses by giving them notice that if an agreement was not reached in a few hours he would be obliged to resort to another solution. This was interpreted to mean some kind of dictatorship and brought speedy results. Curtius was shifted to the portfolio of economics, and Kuelz, another Democrat, was assigned to the interior. This action of the president indicates the power of the German presidency when it is occupied by a person of great personal force and popularity.[67]

The second Luther government was from the beginning unstable, since neither of the large parties, Nationalist and Socialist, was represented. One or the other of these groups, however, was always necessary for a majority. Moreover, the issues that confronted the cabinet were such that only a strong government could hope to cope with them. Among the most knotty problems were those relative to the settlement of the princes' claims, valorization of bonds, taxation, and finally the flag question. Strangely enough, it was on the last-mentioned that the

[65] For Dr. Koch's program see *Berliner Tageblatt*, December 16 and 17, 1925. Among the Socialist demands were the following: higher salaries for state officials; resistance to the Hohenzollern demands for compensation; and additional unemployment relief.

[66] *Berliner Tageblatt*, January 19, 1926.

[67] *Ibid.*, January, 20, 1926; also *London Times* (weekly ed.), January 21, 1926.

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government fell. Early in May the cabinet had voted that German diplomatic, consular, and other government officers abroad should be allowed to fly the old imperial colors along with the black, red, and gold colors prescribed by the Weimar constitution. This flag issue was not a new one. During the presidential election of 1925 it aroused much bitterness. The conservative parties stirred high enthusiasm among their followers by parading the old standard and associating it with the glories of Germany's past, and equally the fear of Republicans who saw in it only an emblem of the old reactionary régime. The action of the government aroused these old antagonisms, and on a Democratic motion to reject the cabinet decision, the government was defeated by a vote of 176 to 146.[68] The Nationalists showed their hostility to the government and their resentment at not being in the government by not voting. The majority against the government was made up of Democrats, Socialists, and Communists. Considerable fear was aroused at the same time by the alleged discovery of a widespread conspiracy among reactionary elements to effect a fascist dictatorship.

Upon Dr. Gessler's failure to form a government, President Hindenburg turned to ex-Chancellor Marx, leader of the Center party. Marx accepted and announced his decision to retain the Luther cabinet. During the cabinet crisis the president's influence was again shown to be powerful. It was he who secured the needed coöperation between the People's party and the Centrists, in laying down the policy that existing international agreements were binding, that Germany adhere to the Locarno treaties, and that as long as the Nationalists rejected these treaties and refused membership in the League of Nations they would not be admitted to the coalition.[69] The Socialists retained their freedom of action, although it was the desire of the president that the Great Coalition, including all parties from the People's party to the Socialists, be restored. They, however, could be depended upon, for the time being at least, to vote for the government's foreign policy.

The Marx ministry, thus established, was weak from the beginning, especially since the Socialists were bitterly opposed to its domestic policy. It fell on December 17, when the Socialists introduced a "no confidence" resolution. The motion passed by a vote of 249 to 171, with only the People's, Center, and Democratic parties standing by the government. The chief attack of the Socialists was directed against

[68] *Berliner Tageblatt*, May 13, 1926.
[69] *London Times* (weekly ed.), May 20, 1926.

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Gessler,[70] minister of defense, who, it was claimed by Scheidemann and other Socialist leaders, had for many years been secretly coöperating with reactionary military leaders in illegally building up reserves and military supplies. The Socialists demanded the discharge of all men connected with these activities and condemned Gessler for his failure to make of the army an instrument for the defense of the republic. Chancellor Marx came to the defense of the accused minister and later declared in a meeting of the Center party that he would refuse to have anything to do with the proposed Great Coalition, for which Herr Wirth, a former member of the party, was working.[71] For some time the leaders of the People's party had been negotiating anew with the Nationalists with a view to the establishment of a bourgeois bloc, but these plans had to be abandoned because of opposition from the Center. The Marx government was asked to carry on the government until after the holidays.

Near the end of January, 1927, Marx found it possible to create a new cabinet. The Nationalists were again admitted and, in accordance with President Hindenburg's wish, a majority government was established. The new government consists of four Nationalists, Hergt, Schiele, Keudell, and Koch; two representatives of the People's party, Stresemann and Curtius; one of the Bavarian People's party, Schaetzle; three Centrists, Marx, Koehler, and Brauns; and Herr Gessler, defense.[72] It may seem strange that the last-mentioned was included, but it must be remembered that the president strongly favored him and that the middle-class parties sympathize with his policies. Gessler resigned from the Democratic party and classed himself as a non-partisan.[73] The Marx government controls only 250 of the 493 members of the Reichstag, the narrowest possible majority, and even this majority is unstable, for the left-wing elements of the Center are by no means reconciled to coöperation with the Nationalists.[74]

The fact is that with the present distribution of party votes in the Reichstag it is impossible to create a strong government. Before such a government can be realized, the Nationalists must definitely accept the republic as the permanent form of government and thus disarm the

[70] Minister in the last ten cabinets.

[71] *London Times* (weekly ed.), December 23, 1926.

[72] *Vossische Zeitung*, January 29, 1927. On May 17 the law for the protection of the republic was extended for a two-year period by a Reichstag vote of 323 to 41. *Ibid.*, May 18, 1927.

[73] *Vossische Zeitung*, January 29, 1927.

[74] *Ibid.*, February 5, 1927.

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liberal middle-class groups; or the conservative middle-class groups, such as the People's party and the right wing of the Center, must accept a socialistic program and thus secure the coöperation of the Socialists. The latter will probably not happen. Germany is at present both conservative and republican in sentiment. This sentiment can be effectively represented in government only when the Nationalists wholeheartedly accept a conservative republic and thereby make it possible for the republicans to work with them for the accomplishment of the objects they have in common.

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What is the Podestà? Early in 1926, Premier Mussolini revived the long dormant office of *podestà* for the municipalities of Italy. Thenceforth the term has been frequently before the public. What is this office? And what is the significance of reviving a long forgotten term as its title?

Divorced from the specialized significance that it had in Italy, the term was used in many places and times, ranging from the fringe of Roman antiquity down to the present day. The word itself, of course, is nothing but the Italian form of the good classical Latin *potestas*, with its simple meaning of "power." We may be inclined to believe that the use of such an abstract term to signify the officer who held the "power" in city administration is a late development; yet there is an isolated example in Juvenal (1st-2nd cent. A.D.) where such a usage occurs.[75] Juvenal is discoursing on the vanities of human desires, and is pointing specifically to the downfall of Sejanus, when he asks, "Would you rather choose to wear the bordered robe of the man now being dragged through the streets, or to be a *magistrate* at (the little towns of) Fidenae or Gabii, rendering judgment on weights and measures?" Some three centuries later, Possidius, in his life of St. Augustine, uses the term in connection with the Donatist controversy.[76] Avitus Viennensis tells us how on one occasion some great magistrates were momentarily expected to arrive at the town, and the prominent citizens were anxious to be on hand, so

[75] Juvenal, Sat. X, l. 99–101:

"huius qui trahitur praetextam sumere mavis,
an Fidenarum Gabiorumque esse potestas
et de mensura ius dicere, ... "

[76] Possidius, Vita S., Aug. 14: "Non defuerunt qui dicerent permissos non fuisse eosdem episcopos *apud potestatem* quae causam audivit dicere omnia pro suis partibus. . . . . "

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that no dire construction would be placed on their absence. Here again the term used is *potestas*.[77]

Let us now turn to Italy. Du Cange[78] tells us that in Italy *podestà* was used to designate the supreme magistrate of a free city, who was chosen from a city other than that in which he was to function,[79] and held supreme authority over the citizens in civil and military affairs during his period of office, which was usually one year. The only other short and quasi-adequate definitions are found in Meyer's "Konversations-lexikon," where the *podestà* is defined as *der Bürgomeister*; and in Brockhaus' "Konversationslexikon," which has *gleichbedeutend wie Bürgomeister*.

The first institution of the office of *podestà* was at Bologna in 1151 (1153?).[80] Leander Albertus[81] describes the inception of the office as follows: "The citizens, seeing that there often arose among them quarrels and altercations, whether from favoritism or friendship, from envy or hatred that one had against another, by which their republic suffered great harm, loss and detriment; therefore, they decided, after much deliberation, to provide against these disorders. And thus they began to create a prudent man of foreign birth their chief magistrate,

[77] Epist. 58. Another reference of interest is found in the Itin. Helvet. et Ital. 226. A great many more references to this use of the term—especially in the legal codices—are to be found in Du Cange, *Glossarium Mediae et Infimae Latinitatis*, Vol. 6, pp. 437–440. The many and varied significances (none of which, however, contribute directly to our point) which the term acquired during the Middle Ages and the days of feudalism are also indicated in Du Cange.

[78] *Op. cit.*, p. 439.

[79] In substantiation of this, cf. *Monumenta Germaniae Historica*, No. 18, p. 438, l. 20 sq.

[80] Alfred Hessel, *Geschichte der Stadt Bologna* (Berlin, 1910), p. 88, says: "An Stelle der Wahl einheimischer Konsuln erfolgte die Erhebung Guido da Sassos zum *Podestà* für 1151, und man beliess ihn fünf Jahre in seinem Amt." He quotes references to Savioli, *Annali Bolognesi*, and to the Archives of Bologna, as his authorities. *Ernesto Monaci*, in his edition of *Gesta di Federico in Italia* (in *Fonti per la Storia d'Italia*, Vol. 1), note to l. 460:

"Illicet egreditur populus servire paratus,
Quem Guido, vir prudens, solus tunc rite regebat"

says: "Guido di Ranieri di Sasso. È ricordato comme rettore e *podestà* dei Bolognesi dal 1151 al 1155 in varii documenti; v. Savioli, *Annali Bolognesi*, I, 225–31." Sismondi, in his *History of the Italian Republics* (ed. by Boulting), assigns the original institution of *podestà* to 1153, as does Edith E. C. James, in *Bologna: its History, Antiquities, and Art* (London, 1909), p. 99 sq.

[81] Storia di Bologna. I have not had access to this document. My account and quotation is from the book of Edith James (see note 80), pp. 99–100.]

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giving him every power, authority, and jurisdiction over the city, as well over criminal as over civil causes, and in times of war as well as in times of peace, calling him praetor, as being above the others, or *podestà*, as having every authority and power over the city." Albertus further describes how "with great ceremony there was given to him by all the people authority over the city and the district; they presented to him the baton, which signifies power, the sword justice, and the cap sincerity, meaning that in the affairs of the city he should confer with the consuls, and arrange everything with them so that things should succeed in good order and peace." The first man to assume these honors and responsibilities was Guido di Canossa (see note 80 supra), whom the burghers of Bologna called in from the little city of Faenza. As Hessel (see note 80 supra) has pointed out, Guido was in office until 1155, while the usual term was only one year.[82] Albertus further assures us that under Guido's administration "Bologna was living peacefully."

It was this office of *podestà*, created "to preside over the tribunals and keep peace among the turbulent nobles and parties," which Frederick Barbarossa adopted for imperial administration in Italy. At the second diet held at Roncaglia on November 11, 1158,[83] where "he promulgated laws of peace and for the justice of the realm," Frederick appointed as his representative in the more important places an *imperial podestà* "quasi habens potestatem Imperatoris in hac parte." At first Frederick allowed the consuls of the cities to remain, and to be elected by the people (merely being ratified by him), but after this second diet they were also appointed directly by the emperor.[84] As Testa[85] points out, the *podestà* was appointed "under the pretext that contentions were so numerous amongst the Italians that when he came amongst them he had not time to decide them all," and consequently needed a resident personal representative. Testa's authority is Rahewinus,[86] who tells us that on several successive days the emperor, with the assistance of "the four doctors"—Bulgarus, Martinus, Jacobus, and Hugo—listened to pleas

[82] See M.H.G., Vol. 18, p. 115 sq. Sometimes the *podestà* was elected for only six months; see Mathaei de Griffonibus, etc., and M.H.G., Vol. 18, p. 406, ll. 20–50; and also *Anonymus Ticinensis de Laudibus Papiae*, p. 26. At a later date longer periods of office were frequent, and even election for life was not unknown.

[83] Rahewini Gesta Frid. Imp. Bk. 3, 53.

[84] Frid. Constit. No. 174, c6 in M.H.G., Leges, Sect. 4, Vol. 1, p. 242; and Rahewini Gesta Frid. 3, 47.

[85] *History of the Wars of Frederick I against the Communes of Lombardy* (London, 1877), p. 210.

[86] *Op. cit.*, Bk. 4, 6.

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and cases. He was amazed at the throng that hungered and thirsted for justice; and, guided by divine wisdom, "set over each diocese its own judge, taking them not from their own city, however, but from the court circle (curia) or from the neighboring cities. His reason for interchanging them was this: so that no one would be influenced by either favor or hatred to deviate from the path of justice [as might be the case] if one citizen were set over his fellow-citizens. And so it resulted that there was hardly any one of the great throng of litigants who did not leave with joy in his heart to have gained either a full victory or a just hearing in his suit or a satisfactory settlement with his opponent."

Next in order of events was to determine the nature and specific identity of the *regalia*[87] conceded the emperor. One of these rights and privileges was the "power to appoint magistrates for the 'expedition' of justice." In accordance with that authority, "it was conceded and accorded by all that by the assent of the people [Frederick] should create the *podestà*, the consuls, and other officers over each separate city. These men were to be at once faithful and wise and capable of protecting the honor of the prince and rendering justice to the people and their country."[88] We know that early in 1159 he actually sent out his imperial officers charged with the duties just noted.[89]

Such, then, was the beginning of the active use of *podestà*. After the Peace of Constance in 1183 the office became generally elective instead of appointive.[90] From that date on, the changes and developments of the office were many, and the *podestà* was assisted by consuls and other officials to look out for specific functions, e.g., the courts, the treasury, etc.[91]

It must not be overlooked that even before 1183 there were non-

[87] For a complete list, or *definitio*, see Frid. Constit. No. 175, and 176, especially c5 and Rahewinus, *op. cit.*, Bk. 4, 7; also Ottonis S. Blasio Chronicon c. 14. Cf. Savigny, *Geschichte des Römischen Rechts in Mittelalter*, III, p. 170 sq.

[88] Rahewinus, *op. cit.*, Bk. 4, 9.

[89] Rahewinus, *op. cit.*, Bk. 4, 13; cf. Gotifridi Gesta Friderici, sec. 17, 373–375; and Rahewinus, *op. cit.*, Bk. 4, 23, where he tells that Reginald the chancellor, and Otto, Count of Bavaria, were sent to Milan to establish the *podestà* and the consuls. It was the appointment of these last officers which the Milanese considered a breach of the past, and kindled the long series of troubles between Milan and Frederick. For a definitive superimposing of a *podestà* see Frid. Constit., *op. cit.*, No. 206, c7 (this for Placentia in 1162).

[90] For treaty of Constance see Frid. Constit., *op. cit.*, No. 293.

[91] M.H.G., Vol. 18, p. 146, 24–35, for 1221.

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imperial, elective *podestàs.*[92] The various cities found the office convenient and adopted it. Sometimes party factions resulted in the dual régime of two *podestàs* in one year.[93]

As might readily be expected, the office brought many trials as well as honors to those who held it. Consequently, a successful *podestà* was much sought after; he might be reëlected in the same town for several terms,[94] or be sought after from year to year by the near-by towns.[95] Sometimes, too, the outgoing *podestà* was elected to some one of the other responsible offices of the municipality.[96]

We know that the *podestà* had to account for his public acts before he was allowed to lay down his office;[97] he might also be expelled from office for misconduct at the pleasure of the people.[98] The anonymous writer of the "De Laudibus Papiae"[99] tells us about the *podestà* at Pavia. "Formerly the city was governed by consuls alone, but now there is chosen for each year, or half year, a magistrate who is called the *podestà.* He is called, at a fixed salary, from another city, and has assigned him a certain number of officials—a soldier, several judges, notaries, *domicelli, apparitares,* and also some horses, a suitable residence, and things of that sort. When he is elected . . . . he proceeds to the altar of St. Stephen . . . . and then going to the palace before the assembled people, he swears to protect the statutes of the city[100] . . . . and dispatches a herald throughout the city for all thieves, robbers, courtesans, and

[92] Sedgwick, *Italy in the Thirteenth Century,* Vol. 2, pp. 176, 196–198; and Sismondi, *op. cit.,* pp. 162–63, discuss the elective officer in the case of some of the more important towns.

[93] E.g., at Lodi in 1223 and Bologna in 1236. Mathaei de Griffonibus, etc., p. 10: "Dominus Compagnonus de Pontremuli et dominus Ubertus Fardus fuerunt potestates Bononiae."

[94] Mathaei, etc., p. 17 for year 1266 and 1267.

[95] M. H. G., Vol. 18, p. 406, 20–50; add also Mathaei, *op. cit.,* p. 9, where Ubertus Vicecomes de Mediolano was *podestà* of Bologna in 1228 and 1233.

[96] See reference to note 22 and Chronica Alberti de Bezanis for the year 1329; and Mathaei, etc., p. 11, "Dom. Arduinus Confalonerius de Placentia fuit potestas Bononiae."

[97] Sedgwick, *op. cit.,* p. 197 sq., tells us about this in connection with the constitution of Bologna.

[98] Mathaei, etc., p. 6, in the year 1192: "Dominus Gerardus Ghislaede Scanabichis, epicopus Bononiae, fuit electus potestas Bononiae pro duobus annis. Et primo anno valde bene se habuit in officio, sed secundo anno fuit expulsus de regimine, quia male se habuit."

[99] Anonymus Ticinensis, *op. cit.,* in Muratori, Vol. 2, col. 24–25.

[100] For the actual oath of a *podestà,* see Corio, *Historia di Milano.* part 2, p. 167 (1646 ed.).

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heretics to leave. And so he always carries out the cause of justice by punishing the malefactors and robbers and by giving their rights to everyone. . . . . The *podestà* is not allowed to depart at the expiration of his term until he has dismissed the *syndicus*, who must account for all acts."

The candidate for the *podestà* was supposed to be sought out for nomination and not to "run" for office.[101] The qualifications required were naturally high, and therefore the promising young man might well hope that some day he would be under consideration. Is it unexpected, then, that a handy little treatise on the "customs of the service" for aspiring candidates should make its appearance?

The "Oculus Pastoralis,"[102] or book of etiquette and helpful hints for the *podestà*, was composed by an unknown author about 1222. In the first paragraph the author explains his purpose: "In this little work which I am undertaking by request (but more or less against my will) I shall employ a clear style and simple diction. Since simplicity is a friend to the 'rude' laymen and the little learned, this work is composed for their convenience—if any of them have been called to positions of leadership in their towns—so that they may gain beforehand some things of a subtle and clever turn, by which to administer over subjects and others, whenever the opportunity or need occurs."

The treatise is divided into six chapters, with several numbered paragraphs in each. It treats of such general topics as "the office of *podestà*," "the salary," "the address of welcome by the retiring *podestà* to his successor," "the choice of counsellors," "the care of money accounts." In the fifth chapter there are several "model" speeches for public occasions, especially on the death of prominent people. The last chapter has four paragraphs on the general topic of war, and one on "moderation and training of officials." This summary will indicate that the book is in no way official, but obviously popular.

It may be of interest to see the order in which the more important cities adopted the office of *podestà*. This officer was found at Bologna in[103]

[101] See Du Cange, p. 439, for the form letter used to notify a *podestà* of his election.

[102] *Oculus Pastoralis sive Libellus Erudiens Futurum Rectorem Populorum* is the title on the general title page of the work in Muratori, *Antiquitates Italicae Medi Aevi*, Vol. 4. A secondary title is found at the head of the first page: *Oculus Pastoralis, Pascens Officia, et Continens Radium Dulcibus Pomis Suis.* The treatise fills pp. 96–128.

[103] This information is taken from the tables in Stokvis, *Manuel d'Histoire*, etc., Vol. 3. See also Sismondi, *op. cit.*, p. 162–63, and Sedgwick, *op. cit.*, pp. 176; 196–97.

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1151 (also elective after 1183); Verona in 1163; Padua, 1174; Parma, 1175; Lodi, 1183; Florence, 1184; Milan, 1186; Pisa, 1190; Genoa, 1191.

It must not be thought, of course, that the office remained the same through the several centuries of its existence.[104] In fact, it has even been said that "the institution of the *podestà* remained—an historic survival which kept nothing but the name." In spite of all the precautions that seem to have been exercised, the *podestà* often developed into a despot, and consequently several officers were created to check him. Notable among these was the *capitano del populo*, who represented the people's party. By a gradual diminution of power, and by inter-city conquest, the office gradually disappeared. In most cities this took place in the fourteenth or fifteenth centuries.[105]

We are now in the year 1926 again.[106] On the 28th of January of that year, the law establishing the office of *podestà* for cities of more than 5,000 inhabitants was passed by the Italian Senate by a vote of 108 to 36. On April 17 the law was signed by the king. On September 3 the second law relating to *podestà* was passed. This extended the office to all the towns of Italy.

There are some similarities between this new office and the old, but perhaps more differences. For example, the old requirement of noble birth is not met with; neither does the officer have to come from a different city from that in which he holds office. Like its medieval ancestor, the modern office of *podestà* was created to quell party factions and local centers of unrest. It has thereby replaced the old municipal city governments with their mayors by a government supposed to be more stable and responsible.

The officers all have the same title, *podestà*, except the officer at Rome, who is known as the *gobernador*. There is likewise a distinction in the matter of appointment. The *gobernador* of Rome is appointed directly by the central government, the *podestàs* for the other cities and towns are appointed by the provincial authorities.

Another point of similarity between the old and the new is the matter of technical qualifications. The *podestà* must possess a diploma of

[104] We are not concerned here with the *podestà* of the people, the *podestà* of the merchants, etc.

[105] See Stokvis for his commentaries in connection with the various tables of officers.

[106] For my information on the modern office of *podestà*, I am largely indebted to Signor Sillitti, consul-general of Italy at San Francisco. He has generously given of his time, and has made accessible his file of laws and legal reviews.

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classical or scientific maturity or one of technical or magistral ability; or he must have served in the World War as a commissioned or non-commissioned officer with troops under fire; or have filled for at least six months the post of mayor, royal commissioner, or prefect.[107] The term of office of the *podestà* is five years, and he may be reappointed an indefinite number of times. The *podestà* serves without salary, as do the members of the municipal consulta who form his counsellors.

The law establishing the *podestà* is now fully in effect, and *podestàs* have been named for all of the 7,346 communes with a population of less than 5,000. In cities of more than 20,000 inhabitants, one or two *vice-podestàs* are named as assistants. Here also the naming of the consulta (from ten to forty members) is obligatory, while in the smaller communes it is not. From these various considerations it is clear that the success of the new system depends essentially upon the type of man selected for the position of *podestà*.

"Recognition of the condition of the smaller communes, often become battlefields for local struggles to conquer communal powers which the winning factions then abuse to the detriment of the interests of the collectivity; and the consequent weakening of these communes in which every beneficial initiative is wasted or diminished by passions and warfare for purely private and never public gains, justify fully the introduction of the *podestà* system. This answers a true need in the nation's present historical moment, that of centralizing power in the hands of a single person who is above party passions, who looks after the observance of the laws, who, in short, answers fully the requirements of a public officer possessing power great enough to silence discords, to make justice triumph, and to spread about him a peace founded in well-being and progress.

"Thus conceived, the *podestà* system fits perfectly into the program of the national government for the construction of a state, materially or morally strong, simple in organization, rapid in movement, and efficacious in action. No one can see how other than in the *podestà* can one achieve hierarchy, authority, prestige, as well as healthy liberty guaranteed by discipline in the interest of the nation and of the laws."[108]

Such, then, is the modern office of *podestà*. As Premier Mussolini has himself said in an interview, this office has some points of close re-

[107] This and the following information is taken from *The Institution of the Podestà in Italy* (Rome, 1926), a little pamphlet of fifteen pages.

[108] Quoted from a speech by the minister of the interior, Federzoni, before the Chamber of Deputies, as reported in *The Institution of the Podestà in Italy*, pp. 14–15.

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semblance to the American city-manager plan. Whether this similarity will grow or decrease, and what the effects and developments of the office will be, cannot be stated now. But whatever else may be said, this at least is clear, that in the revival of this office, Premier Mussolini has once more appealed to the vigorous heritage of early Italy to carry on his modern revivification and unification.

LESTER K. BORN.

Princeton University.

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NEWS AND NOTES

PERSONAL AND MISCELLANEOUS

The headquarters of the American Political Science Association at the Washington meeting on December 28–30 will be the Mayflower Hotel, and all round-table sessions, as well as the general sessions, will be held there. Because of the large number of organizations meeting in Washington at the time, members are advised to make their reservations early. The chairman of the committee on local arrangements is Professor Charles E. Hill, of George Washington University, from whom additional information may be obtained. The round tables, which will occupy the mornings as usual, include the following: (1) The Legislative Process—A Study of the McNary-Haugen Bill, director, Mr. Frederic P. Lee, legislative counsel of the United States Senate; (2) Federal Relations—A Study of Interstate and Regional Organization, director, Professor Arthur W. Macmahon, Columbia University; (3) Problems of Federal Administration: Personnel, Financial, and Departmental Organization, director, Dr. W. F. Willoughby, Institute for Government Research; (4) The Process of Reporting Political News, director, Robert Leigh, Williams College; (5) The Diplomatic Process, director, Professor Jesse S. Reeves, University of Michigan. Persons desiring to enroll in advance as members of a particular round-table should communicate with the director. A joint session of the American Political Science Association and the American Historical Association will be held on the evening of December 28, at which the two presidential addresses will be delivered. A joint dinner of the Political Science and Historical Associations has also been arranged for the evening of December 29, at which there will be one or more addresses. There will be a session on Revolution and Democracy at which papers will be read by Professor Oscar Jaszi, of Oberlin College, on "The Changing Character of Social Democracy in Central Europe," and by Mr. Frank Tannenbaum, of the Institute of Economics, on "Political Consequences of the Mexican Revolution." One session will be devoted to major projects of political research, at which reports will be made by Dr. Lewis Meriam, of the Institute for Government Research, on "The Investigation of the Indian Bureau and Indian Administration;" by Dr. Luther Gulick, of the National Institute of Public Administration, on "A Survey of State and Local Government in Virginia;" and by Professor Raymond Moley, of Columbia University, on "The Scientific Study of the Administration of Justice." At a session on problems of

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federal administration, Mr. J. B. Eastman, of the U. S. Commerce Commission, will read a paper on "The Place of the Independent Commission in the Federal Government." The chairman of the program committee is Professor W. J. Shepard, of the Brookings Graduate School, 1724 Eye Street, Washington, D. C., to whom communications regarding the program should be addressed. A committee to nominate officers for 1928 has been appointed, as follows: Professors Frank G. Bates, Indiana University, chairman; Thomas H. Reed, University of Michigan; E. M. Sait, Scripps College; Alice M. Holden, Smith College; and R. K. Gooch, University of Virginia.

Professor Jesse S. Reeves, of the University of Michigan, who with Dr. James Brown Scott represented the United States at the Pan American Conference of Jurists held at Rio de Janeiro in April and May, returned to this country during the summer and is again in residence at Ann Arbor.

Professor Edwin M. Borchard, of Yale University Law School, has been elected a member of the International Academy of Comparative Law in succession to the late Munroe Smith. The membership of the Academy is limited to thirty jurists throughout the world. The other American members are John Bassett Moore, Roscoe Pound, Harlan F. Stone, and James Brown Scott. The Academy may be called upon by the League of Nations or the World Court for expert assistance in the solution of legal problems.

Professor John M. Mathews, of the University of Illinois, has been granted sabbatical leave for the present academic year. He is spending part of the year in research in Washington and part in European travel. His latest book, "Essentials of American Government," has recently been published by Ginn and Co. Professor Mathews' place is filled for the year by Dr. Lawrence D. Egbert, formerly of Occidental College.

On the invitation of the America-Yugoslav Society, the National Institute of Public Administration is sending Dr. Charles A. Beard to Yugoslavia this winter to make a study of the government and administration of that country.

Dr. John A. Lapp, at one time director of the Indiana Bureau of Legislative Information, and more recently director of the social action department of the National Catholic Welfare Council, has become professor of sociology and head of the department of social sciences at

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Marquette University. Two of his courses dealing with social legislation and the relative spheres of state and nation fall within the province of political science.

Mr. Malcolm W. Davis has been succeeded as executive director of the Council on Foreign Relations by Mr. Walter H. Mallory, who during the past five years has been in the Far East as executive director of the China International Famine Relief Commission. Mr. Davis has become editor of the Yale University Press.

Dr. J. Lynn Barnard, for seven years with the Pennsylvania department of public instruction as director of social studies, has joined the staff of Ursinus College, where he will be professor of political science and director of social studies for teachers.

Dr. Orren C. Hormell, De Alva Stanwood Alexander professor of government at Bowdoin College, spent the second semester of the last academic year and the summer of 1927 studying public utilities administration in England, Scotland, Germany, Switzerland, and France.

Dr. C. M. Kneier, instructor in government at the University of Texas, has been appointed assistant professor in the department of political science at the University of Nebraska. He will offer courses in municipal government and administration.

Mr. Morris B. Lambie, professor of political science and chief of the municipal reference bureau of the University of Minnesota, has been granted a sabbatical leave for 1927–28. He is spending the year in Washington, D. C., and in England in the study of civil service problems.

Mr. Harvey Walker, senior staff member of the League of Minnesota Municipalities, has been appointed instructor in political science and acting chief of the municipal reference bureau of the University of Minnesota during Professor Lambie's absence. Mr. Walker was formerly an instructor in political science at the University of Kansas and assistant secretary of the International City Managers' Association.

Professor Graham H. Stuart, of Stanford University, is serving as acting professor of political science at the University of Washington during the autumn quarter. He is giving courses on international relations.

Dr. Ernst B. Schulz, formerly instructor at the University of Michigan, has been appointed assistant professor of political science at Lehigh University.

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Dr. William Strachan, also formerly instructor at Michigan, is now associate professor of political science at Ohio Wesleyan University. He is teaching international law and international relations.

Dr. James K. Pollock, Jr., assistant professor of political science at the University of Michigan, has been awarded a Social Science Research Council fellowship and is spending the year in England, France, and Germany studying the use of money in elections.

Professor Joseph P. Harris, of the University of Wisconsin, delivered an address before the Election Commissioners Association of New York at its twelfth annual meeting at Jamestown, N. Y., on August 2.

Dr. Réné W. Pinto, who completed his graduate work at the University of Wisconsin in June, has been appointed professor of political science at Valparaiso University.

Dr. Herman J. Beyle, formerly of the University of Chicago, is now an assistant professor of political science at the University of Minnesota.

Messrs. Raymond W. Foery, Edward W. Carter, and W. E. McDonald have been appointed instructors in political science at the University of Pennsylvania. Mr. Foery was formerly instructor in economics at the College of the City of New York, and previously taught at Carnegie Institute of Technology. Mr. Carter and Mr. McDonald were formerly assistants and graduate students at Pennsylvania.

Miss Margaret Henshaw Ward, who was in the Brookings Graduate School last year, has been appointed instructor in government at Barnard College.

Miss Elizabeth Mary Lynskey, of the Brookings Graduate School, has been appointed instructor in political science at Hunter College.

Messrs. Dale A. Hartman and Lewis Rockow have been promoted to assistant professorships at Syracuse University.

Mr. Merritt M. Chambers, who has been an instructor at the University of North Dakota, and Mr. W. P. Riddlesbarger, who has been at the University of Nebraska, have been added to the political science staff of the school of commerce, Oregon State Agricultural College, both with the rank of instructor.

Dr. R. R. Wilson, who for the past two years has been assistant professor of political science in Duke University, has been promoted to an associate professorship.

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Professor R. S. Rankin has recently resigned his chair in Tusculum College, Tennessee, and has joined the faculty of Duke University as assistant professor of political science. Professor Rankin will give special attention to work in the field of state and local government.

Professor Herbert N. Shenton, formerly of Columbia University, has been appointed head of the department of sociology and a member of the staff of the School of Citizenship and Public Affairs at Syracuse University. Mr. Douglas G. Haring, who has been teaching in the extension department of Columbia University, has also become a member of the staff at Syracuse.

Dr. Forrest R. Black, associate professor of political science at the State University of Iowa for the past two years, has been appointed professor of law at the University of Kentucky.

Dr. George F. Robeson has been promoted to an associate professorship of political science at the State University of Iowa, and Miss Dorothy Schaffter and Mr. Francis R. Aumann have been appointed full-time instructors.

Dr. John M. Pfiffner, formerly of the State University of Iowa, has been appointed head of the department of political science at the University of Wichita; Dr. David W. Knepper is in charge of the department of political science at the Mississippi State College for Women at Columbus, Mississippi, during the present year; and Dr. Roy V. Sherman has received an appointment as assistant professor of political science at the University of Kentucky.

At New York University Professor Charles Hodges has been advanced to an associate professorship of government; Dr. Roy V. Peel, formerly of the University of Rochester, has been appointed assistant professor of government; Mr. Russell Forbes, director of the Municipal Administration Service and secretary of the Governmental Research Conference, has been made lecturer in municipal government; and Messrs. Luther H. Evans, Ernest G. Trimble, Thomas Wenner, and Paul M. Hamlin have been appointed instructors in government.

President Coolidge has asked the Carnegie Foundation for International Peace to arrange for a visit by a representative scholar to the countries of Latin America with a view to presenting in a fair light the attitude of the United States government toward these nations and toward foreign relations in general. Dr. David P. Barrows, head of the

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department of political science at the University of California, has been selected for this mission, and will be engaged upon it from January to June. He will have the status of Carnegie visiting professor of international relations, and, in addition to other activities, will visit and hold conferences at numerous universities.

The Social Science Research Council held its second meeting of the year from August 28 to September 1, at the close of its annual Hanover Conference. On the unanimous request of the officers who had been burdened with the direction of the activities of the Council since its formation, these were replaced. The new officers are: Professors Wesley C. Mitchell, Columbia University, chairman; Arthur M. Schlesinger, Harvard University, vice-chairman; Robert T. Crane, University of Michigan, secretary; and Robert S. Woodworth, Columbia University, treasurer. Dr. Harold G. Moulton, of the Institute of Economics, Washington, D. C., was chosen chairman of the committee on problems and policy. A new committee was formed to consider methods of coöperation with other organizations. A matter of special interest was the completed report of the committee in charge of the task of formulating a plan for the publication of a journal of abstracts covering the periodical and other literature of the social sciences. R. T. C.

The trustees of the Michigan Law Review Fund, a fund established some years ago by Mr. William W. Cook, of the New York Bar, for the benefit of the *Michigan Law Review*, offer a prize of $500 for the best essay, and another of $250 for the second best essay, upon "American Institutions." The essay may be historical, sociological, legal, or otherwise. The purpose is to stimulate the study of American institutions, to define them, explain them, and familiarize Americans with them by essays having literary as well as historical merit. It is not the intention to confine the discussion to legal or political institutions, nor to prefer legal phraseology to a more popular style. The object is to produce essays that will appeal to and be read by the public. The judges will be requested to consider style as fully as the subject matter. These prizes will be offered annually until further notice. The competition is open to all and the essays may be of any length. The essays must be submitted on or before October 1 of any given year. Inquiries for information regarding the competition and the copies of essays submitted therefor should be addressed to Professor Grover C. Grismore, secretary, Board of Governors of the Lawyers' Club, University of Michigan, Ann Arbor.

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Institute of Public Affairs at the University of Virginia. Under the auspices of the University of Virginia, the first annual session of the Institute of Public Affairs was held at Charlottesville on August 8–20, 1927. The object of this enterprise was not to duplicate the Williamstown Institute of Politics, but to create an agency that would confine its studies primarily to contemporary national, state, and local governmental problems; that would afford an intimate clearing-house for the views of recognized scholars and of leaders in practical politics; and that would provide a popular forum for proponents of conflicting current programs. Realization of these purposes was well assured by the representative character of the board of advisors and of the staff of twenty-four lecturers.

The regularly enrolled attendants numbered about one hundred. Of nearly two thousand auditors who registered only for the popular lectures, several were students in the university summer quarter. The Institute was organized into six round-tables, which met on alternate days; and there were twenty-four general lectures, distributed over morning and evening periods, some of them resolving themselves into open forums. The round-table conferences, averaging about twenty-five members each, permitted consideration of technical problems. Professors A. R. Hatton, of Northwestern University, and Thomas H. Reed, of the University of Michigan, conducted the conferences on state and municipal governments, respectively. Conferences on American social and economic problems were led by President John L. Coulter of the North Dakota Agricultural College, Professor G. W. Dyer, of Vanderbilt University, Tax Commissioner Mark Graves, of New York, and Mr. Victor Rosewater. Academic freedom was dominant, and attention was devoted to pedagogical problems relating to the cultivation of student interest in local affairs.

In the initial general lecture, Governor Harry F. Byrd dealt with problems in the reorganization of state and county governments. Of the twenty-three succeeding discourses, twenty treated of American domestic affairs. Governor Henry J. Allen opened a popular forum on inland water-way development. The zenith of the debates was reached on a morning when alcoholic prohibition was defended by ex-Secretary William Gibbs McAdoo, Senator Carter Glass, and Professor A. R. Hatton, in opposition to arguments advanced by Governor Albert Ritchie. The public addresses are being published and may be obtained,

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at a price of one dollar, from the director, Dean Charles G. Maphis, University of Virginia.

The general results of the Institute would suggest that every state, and even every county, should maintain an institute of public affairs, after the manner of the old-fashioned farmers' institutes and of the present-day teachers' institutes, to the end that the electorate may more effectively accomplish its functions. Virginia's experiment furnishes a model that is subject to even further elaboration. For the 1928 meeting, indeed, the sponsors are already considering a conference of governors and addresses by nominees for the presidency.

MILTON CONOVER.

Yale University.

Los Angeles Institute of Public Affairs. The second Los Angeles Institute of Public Affairs, designed for persons interested in law and government, was held July 5–9. As was the case with the first Institute, held in the summer of 1926, the Institute this year was conducted in connection with the University of California summer session in Los Angeles and was sponsored by the political science department. The subjects dealt with at the Institute this year, both in formal lectures and in conferences, were in two general fields of interest, namely, state government and law. The following persons addressed the Institute and led the round-table discussions on state government: Hon. A. R. Heron, chairman of the California state board of control; Hon. William J. Cooper, superintendent of public instruction for the state of California; Mr. Clarence A. Dykstra, lecturer on municipal government in the University of California at Los Angeles; Professor W. W. Mather, of the Chaffey Junior College at Ontario, California; and Professor Russell M. Story, of Pomona College.

The subject of Mr. Heron's address was "The Reorganization of the Administrative Services of the State of California." The speaker noted that the reorganization of state administration in California now in progress is the outcome of many years of study in this as well as in other states. At the present time two principles are guiding the reorganization plans. "The first is that of grouping together in one department all functions which have organic relationship. The second is that of providing for the governor a group of advisors, nine in number, consisting of the directors of the main departments of government, who will constitute a council" which will meet with the governor in an advisory capacity and for consultation purposes. Mr. Cooper spoke

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on "The Program of Administrative Reorganization and the State System of Education." He paid special attention to the California state constitutional amendment of 1913 which provided "two heads to the California school system, one an elected superintendent of public instruction, and the other a state board of education." In his opinion "a complete and thoroughgoing reorganization of the system will require the passage of a constitutional amendment either abolishing the state board of education or abolishing the superintendent of public instruction's office or subordinating one to the other." At the session of the Institute devoted to the subject, "Administrative Reorganization and a New Constitution for the State of California," Mr. Dykstra discussed the need of a new constitution and the difficulties encountered in attempting to revise the state fundamental law. Professor Mather compared the two constitutions which California has had and presented a tentative plan for constitutional reorganization. The conference addressed by Professor Story considered "The Organization and Functioning of the State Legislature." In the course of his remarks Professor Story suggested, among other things, that there should be developed in American democracy a more adequate technique than now exists whereby the public might be brought to a full realization of the fact that the ultimate responsibility for legislative inefficiency rests with the electorate.

Four sessions of the Institute were devoted to consideration of legal subjects. These sessions were in charge of Dean Roscoe Pound, of the Harvard Law School, who lectured twice and twice acted as conference leader. The subjects of the lectures were: "The Task of Civil Justice" and "The Materials and Methods of Judicial Decision." The subjects for the conferences were: "Problems of Judicial Organization and Administration" and "Problems of Legal Procedure."

Among other things Dean Pound said that, speaking generally, the task of civil justice is the harmonizing of human claims by their systematic evaluation and by decision upon and enforcement of them. More specifically, four tasks face civil justice if the broader goal is to be reached. These are: the settlement of individual disputes; the enforcement of duties; the discovery of safe pathways for the conduct of enterprises; and the making of rules for the guidance of individuals in their social relationships. In the course of his treatment of the materials and methods of judicial decision he stated that the three important elements of the law might be enumerated as follows: a number of legal precepts; a body of traditional ideas; and a group of philosophical, political, and

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ethical ideas as to the end of the law. The last of these, he observed, is made up to a large extent of an idealized picture of the legal and political institutions of pioneer America. In the conferences Dean Pound stressed the steps which are under way to adapt judicial organization and administration so as to function more effectively in modern industrial and urban communities. He also gave considerable attention to the rule-making power of the courts, the selection of judges, and improvements in methods of instruction in law schools. He commended as forward steps the judicial council of California and the recent bar organization act.

The interest shown in this year's Institute, both by those connected with the University of California summer session in Los Angeles and by the general public, was exceptionally encouraging. Dr. C. G. Haines, chairman of the committee in charge, has announced that plans are under way for a third Institute during the summer of 1928.

ORDEAN ROCKEY.

University of California at Los Angeles.

The Institute of Politics at Williamstown. Between July 28 and August 25, the seventh session of the Institute of Politics was held at Williamstown. Said the executive secretary, Professor McLaren, at the beginning of the session: "New problems arising in the world, or problems of long standing entering upon new phases, present difficulties that require discussion. We have come to recognize that the United States has entered upon a new phase in its relations with the other members of the family of nations. Our power to produce goods and the consequent necessity to sell them almost equals that of all the rest of the world. This recent development has brought us face to face with a many-sided problem and if we are to solve it successfully we must take stock of our situation." This the Institute attempted to do through eight round-table conferences, of which five bore directly upon American interests and policies, supplemented by three lecture courses and five special addresses. The practice of holding general conferences, which has prevailed at previous sessions, was somewhat modified. Instead of considering certain special topics in general conference, each round-table leader held two general conferences for all members of the Institute, in which he summarized the most important features of his round-table.

Another novelty was the study of Latin America from a new angle. Hitherto this subject has been considered under the able leadership of the head of the Pan American Union. But this year Professor William R.

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Shepherd, of Columbia University, discussed "Foreign Interests and National Self-Determination in Latin America." He felt free to emphasize the hegemony of the United States in the western hemisphere, the enormous elasticity of the Monroe Doctrine, the artificiality of Pan-Americanism in its most successful aspects and its political failure, and the conflict between realities and theories which lies at the root of most of the difficulties between the United States and Latin America. He pointed out on what grounds the United States is called imperialistic. In most cases, however, American policy was regarded as more or less inevitable, although specific actions might be condemned as needlessly brusque. The facts, theories, and legal uncertainties of the Mexican question were considered in detail, and arbitration of matters in dispute was endorsed. It was felt that better understanding with Latin America might result from the creation of an inter-American commission of inquiry and conciliation and the establishment, on the Williamstown model, of an institute of inter-American relations. Dr. Moisés Sáenz explained in a lecture the "Educational Policy of the Mexican Government."

Discussion of American relations with Europe was confined to a study of international debts in retrospect and prospect, conducted by Dr. Joseph S. Davis, of the Food Research Institute, Stanford University. Not only were the usual facts and arguments pro and con considered, but also the financial and economic lessons of the reparations question, and the development of American investments abroad with their implications. It was urged that the formulation of some definite policies involving foreign investments was something much to be desired. The course of lectures on the financial and economic policy of Germany since the war, by Dr. Peter P. Reinhold, sometime minister of finance for Saxony and for the German Republic, served to supplement the consideration of the debt question.

Although the relation of that question to the difficulties of American agriculture was considered, it was not regarded as bearing very largely upon the farmers' problems. Mr. Henry A. Wallace, of Des Moines, editor of *Wallace's Farmer*, took up the subject of "An American Agricultural Policy." To what extent America should be industrialized; what percentage of the population should remain agricultural; to what share of the national income the farmer is entitled; how far large-scale organization is practicable in agriculture—these matters were all considered without developing any consensus of opinion. Dangers of a food shortage, increasing the cost of living and thereby creating proletarian

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discontent and unrest, were held up as possible if no relief for the farmers is devised. The creation of an agricultural board and an agricultural council to consider agricultural problems and to formulate far-sighted policies was urged. The government was criticized for favoring business and industry while neglecting agriculture. The homestead law was declared obsolete, and further reclamation projects were condemned. The principles of the McNary-Haugen bill were explained and apparently approved, while the provisions of the so-called administration bill, published in the newspapers during the Institute, were criticized. A lecture on the modern aspect of the land problem in Denmark was delivered by Dr. Jakob E. Lange, of Odense.

Turning to the Far East, a round-table directed by Professor Ralston Hayden, of the University of Michigan, considered "The Philippine Islands: Their Political Status." In general, the Coolidge policies were endorsed and the administration of Governor-General Wood was lauded. On the other hand, the necessity of removing the political uncertainty which now hinders the economic development of the islands was frankly recognized. Commissioner Guevara suggested the appointment of an American-Filipino commission to investigate the whole question and suggest a solution that would satisfy both parties. Such a body could consider world aspects of the subject as well as local ones, and might be able to lift the question out of politics, both in the United States and in the islands. This would seem to hold out hopes for that American-Filipino coöperation which is essential to progress.

Professor Harold S. Quigley, of the University of Minnesota, directed a conference on "The Chinese Situation." While a sympathetic presentation of Chinese nationalism in both its political and cultural aspects was given, the tremendous difficulties to progress in China were considered and the unsuitability of Western democratic institutions to Chinese conditions was admitted. Although the nationalists at present seem to be facing insurmountable difficulties, it was emphasized that the foreign powers should let China alone and stop trying to "pick winners" among the Chinese factions. Mr. Thomas F. Millard gave vigorous warning against large-scale intervention by all the foreign powers to restore order and rescue the Chinese people, and criticized the American minister at Peking for failing to understand or to approve the policy of the present administration in Washington. Suggestion was made favoring some form of gradual abolition of extraterritoriality, or, if abolition is impossible, the creation of a bilateral system of reciprocal extraterritoriality. Professor Stanley K. Hornbeck

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reported on the session of the Institute of Pacific Relations which met at Honolulu, formulating as the two great outstanding facts in the Pacific that "China needs a government" and "Japan needs foodstuffs and raw materials." It was urged that new negotiation for treaty revision be promptly undertaken.

The present problems of the British Commonwealth of Nations since the war were analyzed in a conference led by Professor Herbert Heaton, of Queens University. In considerable measure, this was a discussion of the Imperial Conference of 1926 and its attempt to define the status of the British dominions in their relations to Great Britain and to each other. Any attempt to explain the British Empire raises more questions than it answers, and this was no exception. Unfortunately, no opportunity offered for considering India and the crown colonies. Supplementary in some respects to these discussions was the course of lectures on British foreign policy since the war, by Sir Arthur Willert, of the British Foreign Office. These traced the broad outlines of that policy in all their simplicity, with the exception of those matters then being discussed by the Arms Conference at Geneva.

Certain outstanding features of present-day Europe were described in the conference on "Dictatorship versus Democracy in Europe" under the leadership of Professor Henry R. Spencer, of Ohio State University. The reasons for the existing régimes in Russia, Italy, Spain, Hungary, and elsewhere, were presented in detail, and the beneficial results in each case were described, but considerable doubt as to the stability of such governments was expressed. It was felt that their foundations are unsteady. On the other hand, due consideration was given to our changing views as to the purpose of government. If popular government, instead of being merely a means for protecting the individual against royal tyranny, is to become an efficient agent for social betterment, it must learn how to utilize the expert and vigorous leader, and must free itself from "parliamentarism." Certain phases of this subject were also taken up in a lecture on the basis of political party life in Europe, by Dr. Robert Michels, of the universities of Basle and Turin.

Other aspects of European affairs were considered in lectures of which the most important were those of Count Carlo Sforza, sometime Italian minister for foreign affairs, on "Diplomatic Europe since the Treaty of Versailles." In these he discussed Franco-German relations, Polish-German relations, the succession states, Turkey and the Allied Powers, the Baltic states, and the post-war policies of the Vatican, illustrating many of his points from his personal experiences. In general, he defended

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the peace settlement, and his whole outlook on the future was optimistic. A similarly hopeful note was struck by the head of the Serbian Orthodox Church, Bishop Nicholai, of Ochrida, who lectured on "The New Balkans—New Spiritual and Political Values," and on "The Narrow Path to Peace."

Following the precedent set a few years ago of having one conference of a legal character, Dr. Pierre Le Paulle, the representative in the United States of the National Association of French Barristers, conducted a round-table on the main contrasts between Anglo-Saxon and Continental systems of law. He set forth the advantages of code law over judge-made law and of European methods of examining witnesses and taking appeals over American practices, and pointed out the weaknesses of the jury system.

RICHARD A. NEWHALL.

Williams College.

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BOOK REVIEWS

EDITED BY A. C. HANFORD

Harvard University

The History of Political Science from Plato to the Present. By Robert H. Murray. (New York: D. Appleton and Company. 1926. Pp. vii, 435.)

The recent revival of interest in political theory, especially in England, has led to the publication of a number of books, some of which attack the older doctrines and propose new solutions, others of which are historical surveys of the ideas held in the past. The volume under review belongs to the latter class. It outlines the doctrines of some of the most important political philosophers from Plato to modern guild socialists and bolshevists. It makes little attempt to trace the development of political thought consecutively or to show its relation to the conditions of the period. Neither does it attempt exhaustiveness in dealing with all the important thinkers. It rather selects a few conspicuous examples of important contributions, and is suggestive rather than comprehensive in its method.

Large gaps are left for the intelligent reader to fill, and certain aspects of political theory are given scant consideration. The relation between economic doctrines and political theory is practically ignored in the interesting period at the close of the Middle Ages, and again at the time of the mercantilists and physiocrats, and even at the time of the rise of socialist doctrines. The writer obviously approaches his subject from an ethical and philosophical viewpoint. On the other hand, he is at his best in the chapters on medievalism and the imperialists, and in the chapter on Mazzini. Recent political doctrines are lightly sketched in the concluding chapter.

The book is not written in a detached and impartial spirit. The author takes frequent opportunities to express his own judgments. He clearly indicates his admiration for the conservatism of Burke and for the idealism of T. H. Green. He is dubious concerning pluralism, and he has no sympathy with modern radical doctrines. He describes socialists as "young men in a hurry," and advises the "slow discipline of nature" of Burke. Reverence for tradition and a strong religious background are considered important. The statement (p. 393) that "in the United States ten per cent of the syndicalists control the action of the workers" struck the reviewer as rather peculiar. The author is also somewhat skeptical about democracy. He gives some space (pp. 337–339) to

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the connection between democracy and corruption in the United States. He admits that the judges of "six or seven states are above reproach;" but he emphasizes the widespread lawlessness of the United States and the general breakdown of restraint and discipline. He states that "there is some point in the gibe of J. S. Mill that America has produced nothing but dollars and dollar hunters" (p. 346). He believes, with Burke, that freedom should slowly broaden from precedent to precedent, and he states that "it is the fashion of foolish people to laugh at the idea of the divine right of kings" (p. 340).

The book is written in an interesting literary style. It has excellent bibliographies at the end of each chapter, and it contains as an appendix a chronology of the writings of some of the most important political philosophers. For the general reader who desires some knowledge of the ideas of a few of the outstanding political doctrines, the volume is decidedly useful. For the serious student of the history of political theory, who wishes to study political ideas in relation to the conditions and institutions of their times, and who wishes to know the relations among the various schools of thought, the book will be only a suggestive preliminary sketch.

RAYMOND G. GETTELL.

University of California.

The Statesman's Book of John of Salisbury: Being the Fourth, Fifth, and Sixth Books, and Selections from the Seventh and Eighth Books, of the Policraticus. TRANSLATED, WITH AN INTRODUCTION, BY JOHN DICKINSON. (New York: Alfred A. Knopf. 1927. Pp. xc, 410.)

John of Salisbury, twelfth-century ecclesiastic and author, has been authoritatively described as the "best read man of his time," and particularly as the man surpassing all others of the Middle Ages in the breadth and depth of his classical learning. His most extensive and important work is entitled *Policraticus: sive de Nugis Curialium et Vestigiis Philosophorum.* The main title, a word apparently coined by the author, is not certainly translatable, but has often been given the rendering adopted by the author of the translation under review. The *Policraticus* is the earliest important medieval work in political theory and the latest before the domination of Aristotle over western political writing. It is important also as a revelation of theoretical discussions of the time in the fields of politics, ethics, and philosophy, and is distinguished by its reasonableness and humanism. Its principal specific themes are the relation of church and state, the differentiation between prince and

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tyrant, the subjection of the prince to law and moral duty, and the right of tyrannicide. There is a recent, adequately annotated, edition of the original text; and there are several able commentaries in German, besides the brief sketches in general histories of political thought. But the work has never been translated into English. The book in hand is a translation of approximately half of the entire work, preceded by an introduction by the translator covering sixty-five pages, which gives us the fullest and most illuminating exposition in English of the meaning and significance of the *Policraticus*.

John was successively secretary to three archbishops of Canterbury, including Thomas Becket; and he was bishop of Chartres during the last four years of his life. In the *Policraticus* he takes a somewhat extreme position in arguing for the subordination of civil to ecclesiastical authority; but he admits and roundly condemns the sins of ecclesiastics. The parts most fully covered by the translation are those that treat of questions of most constant interest to students of politics; with full discussions, supported by many illustrations from pagan and ecclesiastical history, of the criteria of proper and improper conduct for persons in high political office. Here John of Salisbury's wide range of classical and historical reading, his wit, common sense, and magnanimity, appear at their finest.

The translator holds that "the *Policraticus* has more light to shed on the issues of 1688 and 1789 than either the *Republic* of Plato or the *Politics* of Aristotle." This claim will not astonish those who read the translation. Readers may even find striking relevance to some discussions and events of the immediate present; for they will find the twelfth-century bishop arguing that injustice by those in authority is the gravest of all political crimes; and they will find him seeking to demonstrate that "all tyrants come to a bad end," that "by the authority of the divine page it is a lawful and glorious thing to slay public tyrants," and that "it is the part of a good and wise man to give free rein to the liberty of others and to accept with patience the words of free speaking, whatever they may be, ... for even if criticism carries open or covert malice, to bear it is in the eyes of wise men a far finer thing than to seek to punish it."

Professor Dickinson has made available to all a substantial part of a thoughtful, entertaining, too little known, work of the past; and he has, in both translation and commentary, done a work ample and exact in scholarship and elegant in literary form.

FRANCIS W. COKER.

Ohio State University.

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Thomas Hobbes: Leben und Lehre. By Ferdinand Tönnies. (Stuttgart: Fr. Frommanns Verlag. 1925. Pp. xxvii, 316.)

Two hundred and fifty years would seem to be a sufficiently long period to take the measure of a man, even such a man as Thomas Hobbes. Yet today there is sharp disagreement regarding the significance and import in the stream of modern thought of this seventeenth-century philosopher. The political and social movements of the eighteenth and nineteenth centuries may all be subsumed under the broad category of constitutionalism, and constitutionalism finds its immediate source in Locke. He, rather than Hobbes, has been the political prophet of modern times. But the Great War and its aftermath of democratic disillusionment bids fair to bring about a Hobbesian revival. As the author of the work under review remarks: "Twelve years have elapsed between the second and the present writing of this work—years which may well be accepted as an example of that phenomenon which our philosopher described as 'a state of nature.' He maintains that this condition of conflict between states is always present—a universal, if indeed at times a latent, condition of war. Even though interrupted by apparent treaties of peace, it is a condition of strife which constantly approaches that of open war of all against all." Surely we cannot dismiss the philosopher of *bellum omnium contra omnes* quite as cavalierly as we might have done in the halcyon days before the fatal third of August, 1914.

Tönnies' work hrst appeared in 1896. In its present third edition the author has taken full account of the considerable additional literature that has appeared on the subject. It is of significance that by far the largest part of this is in German. Perhaps Hobbes appeals to the uncompromising *Gründlicheit* of the German scholarly mind; perhaps the Germans find in him a welcome antithesis to Kantian and Hegelian idealism; perhaps their recent national history has wrought a deeper disillusionment than we in England and America have experienced. Whatever the explanation, there have been at least a half-dozen important treatises on Hobbes written in Germany since 1914. But Tönnies still remains the outstanding and authoritative exposition of Hobbes' philosophy. Leslie Stephen's volume on Hobbes in the English Men of Letters series was based largely on Tönnies, and the English or American student must still go to Tönnies for the best treatment of this English philosopher. His interest is not confined to the political aspects of Hobbes' system. Indeed, only two chapters are devoted to the *Sittenlehre* and *Staatslehre*. It is a book, therefore, which should interest

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students of philosophy in general, and particularly those who wish to understand the broad currents of intellectual movement in the seventeenth and eighteenth centuries. A study of the "Age of Enlightenment" has still much to contribute to an understanding of our own times.

Tönnies' treatment is definitely sympathetic—more sympathetic than the current vogue of English and American thought would endorse. But the pendulum always swings, and Hobbes may yet come into his own among those of his own language. An English translation of Tönnies' work would be timely and useful.

WALTER JAMES SHEPARD.

Brookings Graduate School.

Chinese Political Thought. By ELBERT D. THOMAS. (New York: Prentice-Hall, Inc. 1927. Pp. xvi, 317.)

American political scientists, whose appetite for knowledge concerning the political theory of the Celestial Empire was stimulated by Professor Pott's "Chinese Political Philosophy," will receive this new book on the same subject with much satisfaction. It contains more information than the earlier work and conveys a deeper understanding of the Chinese attitude toward the state and government. As Professor Thomas very truly observes, "it no longer shocks our habits of thought to assume that man . . . . has responded to a given stimulus in much the same way in the East as in the West." Since China is much older than the political world of the West, she met and solved some problems much earlier than the western world. Other problems she did not solve, but her failures, no less than her successes, are significant for westerners facing similar problems.

Professor Thomas very properly confines his attention to the political thought of the Chou period. But with equal propriety he refuses to disregard the non-Confucians, despite the eventual triumph and perennial predominance of the Confucian system of politics. He makes it clear, moreover, that Confucianism was a system of politics as well as an ethical system, and demonstrates the consistency of the classical Chinese theory of universal empire with the economic and social conditions of the country. Very interesting chapters deal with the economic foundations of the state and with the art of government as practiced by the mandarins with their rigorous classical training. How the form of government might remain an absolute monarchy while the ultimate power rested with the people is one of those Oriental paradoxes which Occidentals have been slow to understand, and which Professor Thomas

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takes obvious pleasure in explaining. Likewise he explains how time-honored rules of propriety could serve in lieu of a written constitution, converting what appears at first sight to have been an arbitrary government of men into a kind of reign of law.

A particularly interesting chapter deals with what the author calls "interstate ideas." Balances of power had been established and leagues of nations attempted before Confucius' time, and a kind of international law was well developed when the creation of the universal empire by Hwangti rendered it no longer necessary. Thus international lawyers became obsolete more than two hundred years B.C. The next critical date in the history of Chinese political thought came two thousand years later, when the Dowager Empress created a board of foreign affairs (1901) and gave it the first place in the administrative organization of the empire. Thereby, as Professor Thomas puts it, "Chinese world culture stopped . . . . and Chinese national culture began." Surely a critical date, not only in Chinese history, but in that of all mankind!

Professor Thomas states the object of his book very modestly. He hopes that it "will lead students into the type of research that will bring the great civilizations of the East more into the Western scheme of thought." It should accomplish more than this, for he has demonstrated that there is a place for the study of Chinese political theories in any adequate scheme for the study of the science of government.

A. N. HOLCOMBE.

Harvard University.

The Mechanism of the Modern State: A Treatise on the Science and Art of Government. By JOHN A. R. MARRIOTT. (New York: Oxford University Press. 1927. Two volumes. Pp. xxiv, 596; xii, 595.)

This book comes well accredited. Sir John Marriott is the author of many books in many fields of history and politics. His profession was long that of university lecturer. For ten years he has been an M. P., and a member of important committees in the House of Commons. Now he has published this systematic study of general political science.

The general scheme of "The Mechanism of the Modern State" is entirely conventional. Book I classifies states and constitutions. Book II considers briefly "some typical democracies," i.e., Greece, Switzerland, and the United States. Book III discusses at greater length the government of England, English colonial government, and the organization of the "Empire." Book IV deals with the structure of government—

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such problems as separation of powers, the "problem of the legislature" (which to the author signifies chiefly the need of restoring to the House of Lords its long-lost powers), direct legislation, etc.—and ends with a discussion of financial and legislative procedure in the English and other parliaments. The other four books deal with the executive, the judiciary, local government, and parties.

Perhaps one-fifth of the bulk of the treatise possesses the high value which one looks for in the work of so experienced an author. The chapters on legislative and financial procedure in parliament, and on the English administrative departments, deal with subjects on which the author's recent experience has been his guide. They are informative and vivid, and best of all they deal with subjects on which information is hard to get.

The rest of the treatise lacks any great degree of vividness (though nothing written by Sir John Marriott could be entirely dull) and is of uneven value as to the information imparted. The discussions of English history and politics are full and accurate, but though much use is made of the British dominions, the United States, and Switzerland, for the purposes of comparison, one wonders whether the author has any first-hand knowledge of countries other than his own. The only serious inaccuracy is a lengthy denial that the United States has a budget system—this though the book appears to have been written as recently as 1925.

In point of view Sir John Marriott is a thorough Conservative, and his Tory prejudices are not successfully concealed. Indeed, one reading earnestly between the lines might get a rather good idea of the purely political program of the English Tory of today: "reform" of the House of Lords, closer imperial organization, and a state which shall continue an aristocracy while it assumes the trappings of a democracy.

The book contains some very interesting appendices, giving forms of financial procedure, etc. There is a rather good bibliography—not an exhaustive list of authorities, but quite a comprehensive list of what the author might have headed "books that have influenced me." Dean Inge and Professor Hearnshaw appear in it, but not the Webbs, nor Cole, nor any other "pluralist." There is also a list of Sir John Marriott's magazine articles on subjects discussed in the book.

As an original treatise on political science, "The Mechanism of the Modern State" cannot be commended. As a text-book, it will not interest Americans very much, since many Americans have done the same sort of thing rather better. It would be interesting to speculate as

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to its value for English readers. It is not likely to take the place of Laski's "Grammar of Politics" on the reading lists of labor organizations, nor to supplant Sidgwick or Seeley in the universities.

E. P. CHASE.

Lafayette College.

Administrative Justice and the Supremacy of Law in the United States. By JOHN DICKINSON. (Cambridge: Harvard University Press. 1927. Pp. xiii, 403.)

Those who have worked with legislatures will testify to the need of such a study as this of the principles which should underlie the statutes creating administrative commissions and vesting in administrative officers the right to pass on questions of private right. Scarcely a regulatory statute is found which does not vest in some board or official the right to decide a disputed point in which a private person and the government, or two persons, are involved. An instance of the former is the action of the Postmaster General in issuing a fraud order; of the second, that of the Federal Trade Commission in declaring a trade practice unfair. In either case the business of a private person may be ruined as a result of the administrative action. Those who have been concerned with the passage of bills can also testify to the reluctance of individuals to allow a board or official to pass finally on their rights and the desire for an appeal to the law courts.

Whether a board or a court passes on a question of private rights ultimately means that one or another individual or a group of individuals will act, but the point is that the same man as a commissioner or as a judge may construe differently the terms of a statute or allow different considerations to affect his judgment. The judge is more apt to favor the private interests (so individuals believe) and to consider private rights as generally guarded by the law more favorably than governmental necessities or the public interest, and thus the individual, always ready to object to the delays of court action, refuses to be freed of them in his own case by substitution of an administrative decision.

Why this should be so is studied by Dr. Dickinson both historically and analytically. He finds that the object of law is to avoid arbitrary action, to provide rules which persons can be reasonably certain will be applied to their acts in the future, so that, as Judge Holmes says, "the tendency of the law must always be to narrow the field of uncertainty" (p. 316 n.). How to reconcile this need of certainty to the equal, sometimes greater, need of modification is the problem of development of

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the law, and because the author thinks that this development, this new discovery of rule to be applied to cases, should be a function of the courts (pp. 201–212), he advocates a full review of administrative decisions by the law judges. Questions of fact he would leave to the administrative authorities, but he would always permit the judges to review the case fully in order to determine whether a proper rule was applied, and to enable them to fulfill their duty of adjusting the law to meet new conditions.

A rule, once found and stated, should be continuously applied, and this certainty the courts alone guarantee; hence the right of review of administrative decisions on points of law. They are furthermore the only organs of government which can protect individuals against arbitrary action; hence the right of review of administrative decisions to determine whether they are within the jurisdiction of the administrative body or are supported by the evidence, on the analogy of the review of the verdict of a jury. The great difficulty which the courts experience in fulfilling their function is plainly stated, with richness of illustrations, notably valuation of public utilities for rate-making purposes (pp. 208, 221), and the problem of what are facts which should be left to the commission, and law, to be applied by the courts (p. 55).

Chapter XI on "Review of Administrative Determination of Fact" contains a suggestive analysis of the relation of courts to administrative officials or boards and the importance of respect by the controlling authority, the court, for the function of the administrator.

Accepting the author's theory of the discovery of rule of law from fact (pp. 201, 207), and the importance of modifying these rules to meet changing social needs (Chapter VII), the reviewer questions whether the author should not give more weight to the fixing of rules by the legislatures. The weakness of the court for the purpose, he points out clearly: the fact that it is as disputes between individuals that cases come before them (p. 141), so that the general interests which should govern the making of the rule are obscured by the individual interests; the fact that "the law (i.e., the judges) is much less fitted to deal with masses than with individuals" (p. 212), so that the courts are not well fitted to estimate social forces or to find and evaluate economic facts; and the fact that the training of the bar from which judges must be taken does not fit them for the consideration of social facts (pp. 229, 336). Other points are the difficulty of bringing before the court the real parties involved, which may be a labor union and an employees association, and the real issues, often obscured behind the parties to a

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case. These difficulties perhaps explain the tendency to apply to the legislatures to fix rules of law, since there the great social masses can appear and argue their causes, bring pressure to bear, and evolve the rule which social pressure shows necessary.

The author has excluded from his essay the important subject of administrative regulations (p. 15 n.). Thus he does not consider the important rôle played by rule-making commissions, both in giving precision to the statutes and in providing an opportunity for the expression of the opinion of the masses which the courts find it hard to handle. Furthermore, he does not consider the setting up of administrative courts of review—the board of tax appeals, for example—as a type of organization of the judicial function which provides an administrative court within the department to pass on action of administrative officers and thus furnish judges who are not bound by the rules of evidence and other limitations of law courts and who have a specialized knowledge of the subject-matter of the appeal and of administration. This is along the line of the separation of the administrative and the civil judiciary in the French system. While it cannot be complete under our constitution, the Supreme Court must finally pass on constitutional questions, including what are such questions. This development of separate administrative courts deserves study.

Dr. Dickinson has done a service by his scholarly presentation of an important subject. His book should be considered by all students of government and administrative law.

JOSEPH P. CHAMBERLAIN.

Columbia University.

The State as a Party Litigant. By ROBERT DORSEY WATKINS. (Baltimore: Johns Hopkins Press. 1927. Pp. xvii, 212.)

This is an interesting study of a problem which has recently aroused renewed interest in the United States and England, the two countries which still labor under the antiquated notions incidental to the irresponsible state. Legislative proposals now before Parliament in the Crown Proceedings Bill, 1927 (Cd. 2842), and a bill which passed the House of Representatives on June 10, 1926 (S. 1912), give promise of early reform in the direction of subjecting the government to suit in tort. The present work must have been terminated early in 1925, for much that has happened since in the courts and in legislation and the literature is unnoticed.

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The title of the work is somewhat broader than the contents justify. Aside from the third chapter, dealing with the state as plaintiff in England, the work is confined practically to the position of the state or its officers as defendants. In the United States, only the federal government is noticed, possibly because Singewald's well-known little book on the "Doctrine of Non-Suability in the United States" dealt to some extent with the states of the Union. The first two chapters on the history of non-suability and the petition of right in England are a good summary. Since the work of Ehrlich, Holdsworth, and Clode, not much original work can be done in this field. The 1926 work of Robinson probably appeared too late for notice. On the position of the feudal lords, help could have been derived from Carlyle and Loening, and on the subject of kingly immunity and medieval theory, from Gierke's *Johannes Althusius* and from Frisch on the responsibility of monarchs. *Dyson v. Attorney-General* (p. 26) appears to have been misunderstood by the author. Although in that case an action for a declaratory judgment by a person who denied the power of the crown to exact certain revenue information was sustained, this was only because it was deemed not a direct suit for pecuniary redress. In the latter case, the English courts have not permitted the petition of right to be evaded by suit for a declaratory judgment.

Chapters V to VIII deal with suits against the United States government and against federal officers. The author analyzes the better known cases and makes useful comments. He is opposed to the doctrine of non-suability as a policy and manifests his displeasure in vigorous language. The work of synthesis and comparison, however, which would have relieved, and enhanced the value of, the digest form of presentation is often left undone. One of the best parts of the book is the study of the Tucker Act of 1887 and the refusal of the courts to give it the interpretation which Congress manifestly intended by the 1887 amendment of the acts of 1855 and 1863. Much of the recent statutory development, according to a note, remains in manuscript, unpublished. More could have been made of the artificial distinctions of the Supreme Court in finding a "taking" (p. 90). The "juristic person" was, in Europe, the legal symbol for asserting state responsibility, not for escaping it (p. 50).

Chapter IX deals with state property in domestic courts of admiralty in England and the United States and contains a résumé of the most important, and often conflicting, cases. Dr. Watkins' criticism of the reasoning of the *Western Maid* decision seems justified. Judgment in England does not, it is believed, go against the Admiralty (p. 121), but

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against the commanding officer, although the Admiralty usually pays the judgment. Chapter X, by way of comparison, contains an excellent résumé of state responsibility in France. Much has already been written on this subject in English. The author has made the subject clear and interesting, and perhaps the digest form of presenting cases is a useful way to furnish illustrations. Chapter XI, "The State before Foreign Courts," is a study in international law. Practically the only foreign courts mentioned are those of England and the United States, although the author might well have noticed the peculiar practice of the Italian and Belgian courts in subjecting to jurisdiction foreign state property of states when engaged in "corporate" as distinguished from "governmental" enterprises. The valuable study contained in Judge Mack's opinion in the *Pesaro*, 277 Fed. 473 (though the decision was not sustained), might well have been used. One misses any reference to the cases involving the Soviet government in the American courts, although there has been much literature upon them. The concluding chapter embraces a short discussion of the theories of irresponsibility and responsibility and ends with a plea for the adoption of the "social risk" doctrine of France. Many qualifications would have to be made in the United States. The work is, however, sincere and convincing and is to be welcomed.

Some minor criticisms seem justified. In the discussion of cases much of the American periodical literature seems to have been overlooked. The method of citing cases and literature is haphazard. Dates would have been useful. Errors in citation are not infrequent. Typographical or other minor errors occur on pages 13, 22, 26, 28, 61, 104, 127, 132, 138, 139, 144, 147, 152, 154, 175, 181, 184, 196.

EDWIN M. BORCHARD.

Yale University Law School.

Rome the Law-Giver. BY J. DECLAREUIL. Translated by E. A. Parker. (New York: Alfred A. Knopf. 1926. Pp. xvi, 400.)

The project to present the history of civilization in a series to comprise more than two hundred volumes may rightly be regarded as "a new stage in the history of history." The series already contains some notable historical studies. In "Rome the Law-Giver," Professor Declareuil gives a detailed analysis of Roman law from the time when primitive unrecorded customs prevailed through the creative period of development to the reforms of Justinian. Among the many treatises on the Roman law there is none which gives in brief compass a better

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analysis of legal concepts and procedure in the various periods of legal development.

The frequent use of Latin terms in the body of the work aids in assuring accuracy of treatment and in giving a better appreciation of many of the fine distinctions in Roman legal thought, though it renders the style cumbersome and at times unnecessarily technical. Moreover, the special emphasis on phrases and their shades of meaning, very important from the standpoint of the philologists, results in too brief consideration of some of the underlying concepts, such as the *jus naturale*, which had an important place in the development of equity in the Roman law and played a significant rôle in medieval times.

Professor Declareuil seems to overrate the originality of the Romans in the formulation of their legal ideas. Those familiar with some of the significant contributions to law of the Oriental countries would surely not agree that "the other civilizations left nothing behind them" (p. 7). It is doubtful, also, whether the Romans set about with as definite a purpose as is suggested to draft a legal system to be applicable for all time.

Covering the entire period of Rome's legal history, the author makes some pertinent and suggestive comparisons between the ancient and classical periods of the law when legislative interventions were rare, and the period of the later empire when legislation superseded in a large measure all other sources of law-making. Though there was a decline along many lines in the effectiveness of the application of the law in the period of the empire, it was through the compilation of Justinian that the best products of the classical period were formulated and transmitted to western Europe. With the revival of interest in the study and teaching of Roman law in the United States, the appearance of this volume will be welcomed as a useful summary and guide to the legal concepts and norms which were the outgrowth of centuries of creative effort on the part of the Roman administrators and jurists. It is difficult to estimate the extent to which the different nations have drawn upon Rome's legacy.

CHARLES G. HAINES.

University of California at Los Angeles.

The Anatomy of the Law. BY ADOLF J. RODENBECK. (Boston: Little, Brown and Company. 1925. Pp. xiv, 292.)

The author's purpose here has been to erect an "articulated skeleton of the law" upon which may be imposed the whole of the "legal anat-

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omy," until the *corpus juris* may be revealed in all its "symmetry and completeness." In the present volume nothing more has been attempted than the creation of the skeleton through the process of analysis and classification. In the author's judgment, this is a necessary step in order that the elements and functions of each part of the legal system may be studied in relation to the whole and to its parts, and with reference to its normal action and its deviations therefrom under special circumstances and environment, all of which is necessary in placing the law upon a scientific basis.

The work of classification is, on the whole, well done. An intelligent acquaintance with a wide range of juristic literature is evident. The volume has the merit of being lucid, consistent, and simple. Moreover, it is singularly accurate in its statements of legal principles and doctrines, something that is very rare where condensation of statement has been carried so far. The reviewer does not see the logic or value of some of the classifications made, as, for example, the division of special contractual law into occupational and non-occupational, and the division of the latter into mental, moral, and social (pp. 199–201). But since no two persons ever agree on the details of classification, such additional criticisms may properly be dismissed.

The attitude of the writer is generally critical and realistic, although at times he indulges in some of the orthodox sophistries of the law and permits his optimism to tempt him to inaccurate generalization. He states, for instance, that the development of international law "has been steadily advancing until war, once an object of national pride, has been torn from its pedestal and peace substituted in its place and the nation which unjustifiably makes war upon another nation is now looked upon and treated as an outlaw" (p. 160).

Since the author shows genuine concern regarding the scientific basis of the law, it is to be regretted that he did not give a fuller statement of his conception of science as applied to law. One cannot escape the fear that perhaps he conceives of the science of the law as a matter of exact and consistent statement, and of speculative judgment as to the utility of legal doctrine. Surely this is inadequate. It ignores the fundamental importance of devising a scientific method by which the integrity of legal doctrines may be objectively determined by ascertaining the results that flow from the impact of the doctrine upon the actual facts of life. The tragic difference that too frequently prevails between law in the books and law in action bears eloquent testimony to the fact that any system of legal science that ignores the problem of accurately

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determining the social and economic consequences of applying legal theories to actual situations falls far short of the needs of a modern legal system. Legal doctrines, promulgated by courts amidst the stress, strain, and hurry of litigation, or inherited from a day when the conditions of life were radically different, must be continually subjected to searching scientific scrutiny, in the light of their actual effects upon society, if our legal system is to be kept reasonably intelligent and just.

ARNOLD BENNETT HALL.

University of Oregon.

American Parties and Elections. By EDWARD M. SAIT. (New York: The Century Company. 1927. Pp. 608.)

In their relation to political parties, the people of the United States seem to be approaching the condition of the gentleman who, though he could not live with his spouse, yet could not live without her. At a time when nominal non-partisanship spreads over the map, when split-voting proceeds apace, when eleven of California's representatives in Congress and several of Pennsylvania's receive both Republican and Democratic nominations, when a college freshman is thought to display an amusing lack of sophistication if he takes party claims seriously, political scientists direct more and more of their attention partyward.

In twenty-two chapters, grouped on a sort of combined logical and chronological basis into five parts—Electorate and Public Opinion, Nature and History of Parties, Party Organization, Nominations, and Elections—Professor Sait presents one of the most satisfactory treatments of parties yet published.

In his preface he specifically anticipates criticism of the unusually extensive discussion of manhood, negro, and woman suffrage which occupies three chapters, by pointing out that the electorate is the material upon which party operates and the principal for which party is agent. In any event, the content of these chapters is well-conceived and well-written, albeit the stuff of parties could perhaps be more realistically described in terms of the form and amount of wealth, the rate and source of income, the type of industry, and the character of occupation of their adherents. Such an analysis of party composition is more nearly approached in the chapter on organized groups and their interaction with parties. A chapter on public opinion marks a commendable innovation upon the scope of recent books on parties. The author omits practically all consideration of party processes and tactics in legislative bodies, touches very lightly upon civil service reform, and

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compresses the initiative, referendum, and recall into the chapter on the overburdened voter.

Aside from special stress upon the historical aspects of party organization, this book is further characterized by its wealth, perhaps even superfluity, of concrete factual details. These have been included, it would almost seem, at the expense of omitting some penetrating constructive criticism or stimulating speculative analysis of which Professor Sait is undoubtedly capable—for instance with respect to corrupt practices legislation. This is not to say that the volume is without such content. Numerous authorities are directly quoted, with enlivening effect, and illustrative incidents are presented in extensive footnotes which also serve to guide the reader to practically all the recent special studies on the subject.

In view of the maze of variations in the laws and practices of forty-eight states, the freedom from error of statement is exceptional. It might be noted, however, that Pennsylvania's absent-voting law has been held unconstitutional, and that the primary of the same state falls in May in only one year in four. There is apparent inconsistency between the statement that only ten states permit persons who have not been previously registered to vote on election day (p. 22) and that "forty states require personal registration" (p. 25). "An iridescent dream" is a celebrated phrase ascribed to a Kansan, Senator Ingalls, rather than to a Missouri politician. And Dr. C. A. Berdahl described the Richards primary law in this periodical instead of the reviewer. But these slips are few and trifling.

Professor Sait is a notably sympathetic student of the American party system. He believes that "extra-governmental party organization must be regarded as a necessary consequence of universal suffrage" (p. 174) and that, therefore, party organizations in the United States do not deserve to be disparagingly compared, as to this point, with the parties of England or France, some of which in recent years have been assuming American characteristics.

Of the primary he says: "The one certain thing is that the direct primary, as originally conceived, will not stand" (p. 288), noting at the same time the current tendencies either to keep the primary as a weapon held in reserve, with party committees or conventions recommending candidates, or to modify the primary so that it would become a preliminary election in which parties would not be recognized at all, or to do away with primaries altogether and rely upon petition nomination. "Non-partisan primary" he regards as an absurd appellation; "it is

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non-partisan only" in the sense in which all English elections are. "The true significance of the new system seems to be this. It restores to the parties freedom in conducting their own affairs, in determining membership, in nominating candidates." And the author views such an outcome rather favorably, since he believes that there is no conclusive evidence to show that the non-partisan primary has anywhere destroyed partisanship. And besides, "if the power of the machine has been reduced, party organization everywhere has been weakened at the same time," and, "even in the United States the decay of partisanship cannot be viewed without disquiet. The democratic régime can no more be made to function satisfactorily without strong parties than parties without strong organization" (p. 373). Bryce's description would seem to make an exception of the Swiss democracy. The imposition of legal party membership tests is considered to have produced unfortunate results in the direction of a mere mechanical existence of party (p. 265–6) which would not be tolerated if the parties were the only organs of public opinion and political activity. Senator Norris would heavily discount the following statement: "If the direct primary had accomplished the purpose that many of its proponents had in view and swept away the party organization and the machine, the result would have been chaos" (p. 424).

This book, which appears in the Century Political Science Series edited by Professor Frederic A. Ogg, will serve admirably as a text for college courses in party government and adequately meet the needs of civic-minded general readers who desire a thoroughly informative, accurate, up-to-date, and readable description of the party process in the United States.

RALPH S. BOOTS.

University of Pittsburgh.

Getting out the Vote. BY HAROLD F. GOSNELL (Chicago: University of Chicago Press. 1927. Pp. xi, 128.)

Every presidential election sees great efforts to stimulate voting. Civic organizations, newspapers, churches, and other groups join with the professional politician in attempting to arouse the lethargic citizen. An elaborate technique, including slogans, cartoons, posters, telephone calls, endless-chain reminders, sermons, tags, personal calls, and various ingenious stunts, has been developed. Practically no effort, however, has been made so far to measure the efficacy of these means, or the effect of the whole campaign. This book by Professor Gosnell describes an

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experiment in the stimulation of voting conducted in Chicago in 1924, where the results were carefully tested. The methods used to stimulate registration and voting were by no means unusual; nor were many types of stimulation employed. The thing that was unique, and that justified the author in calling the effort an "experiment," was the measurement of the results. Great care was taken in sampling the voters of the city, and along with each experimental group of voters who were stimulated, a control group of unstimulated voters within the same vicinity was observed, and statistics were secured for both groups.

The results of the experiment are interesting. It was found that stimulation by means of cartoons and informational reminders increased the number of registered voters and the vote cast by about ten per cent. Such stimulation was most effective with the classes of citizens who were uninformed about the registration and election process and those who were not approached by active precinct political workers. The two groups least affected by the stimulation were at opposite poles of society: the most highly educated on the one hand, and the machine-controlled on the other. The negro citizens, unacquainted with the electoral process, responded best.

Not a great deal of light is thrown upon the problem of what type of appeal is most effective. One conclusion was that the women citizens were stimulated better by cartoons, while informational reminders were more effective upon the men. Notices in the foreign sections were most effective when printed in the native languages. It was not the purpose of the experiment, however, to measure the success of various types of appeal, but rather to set up a technique of measurement. The technique evolved is suggestive, but undoubtedly too elaborate to be put into practical use by civic organizations.

JOSEPH P. HARRIS.

University of Wisconsin.

American Citizenship as Distinguished from Alien Status. By FREDERICK A. CLEVELAND. (New York: The Ronald Press. 1927. Pp. vii, 475.)

The author declares in his preface that this volume "undertakes to set forth in clear and orderly terms the meaning and implications of American citizenship as defined in the constitutions of the nation and the states, in statutes, the decisions of courts, and the utterances of government officials." It is described as the first of a series dealing with citizenship and designed to carry out the purpose of the department of citizenship on the Maxwell foundation at Boston University.

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The volume is marked off in three parts, but in reality there are two principal divisions. The first division comprises about half the book and deals with those matters implied in the title. The second division is more remotely related and may be described as a text on political science in relation to the subject of citizenship. The two divisions are widely dissimilar. The first is drawn very largely from secondary sources without much regard to their date of publication or events subsequent thereto. It lacks coördination and accuracy and appears to reflect little of the author. The second appears to be almost entirely the work of Professor Cleveland and is a well-knit, reasoned exposition of his theory of the national group—the conception of sovereignty, the relation of the individuals and the smaller groups to each other and to the community.

As a source of information regarding the inception and cessation of American citizenship, the first division of the book cannot be recommended. One familiar with the field will be amazed to find that the author has not a single reference to the greatest living American authority on the subject, Mr. Richard W. Flournoy, Jr., of the Department of State. Nor has Professor Cleveland had recourse to the appropriate portions of the work of another eminent authority, Dr. Charles Cheney Hyde. References to Moore's "Digest" and Borchard's "Diplomatic Protection of Citizens Abroad," are constantly made without mention of the statutory and other changes which have occurred in the twenty-one- and twelve-year periods, respectively, which have elapsed since those notable works were published. There is abundance of contradiction and ambiguity. A fundamental and recurrent error is the failure to distinguish between the true dual nationality arising from conflicts of *ius soli* and *ius sanguinis* and the clashing claims to the allegiance of naturalized citizens. On page 29 Dr. Cleveland asserts: "That such a thing as dual national citizenship must not and cannot possibly exist is quite a well settled principle now." Yet on the next page he shows that such a status is frequently inevitable, and on page 186 he quotes from Secretary Lansing's famous letter to Senator Lodge which should have made the matter plain. Perhaps the most amazing error is the classification of the American statutes applying the *ius sanguinis* as "constructions" of the Fourteenth Amendment (pp. 52–53). In regard to the same constitutional provision it is further erroneously stated that the children of consuls and citizens or subjects of foreign states born within the United States are not born "subject to the jurisdiction." On page 57 it is said that only United States courts may grant naturaliza-

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tion, while on page 59 Hart is correctly quoted as mentioning that the function belongs to both federal and state courts. In various references to the British law no attention has been paid to the changes effected by the 1914 act (e.g., pp. 71, 73, 187).

There are other erroneous and conflicting statements in this division of the book which space forbids listing. Chapters VIII to X, dealing with the constitutional rights of citizens and aliens, are taken from a master's thesis by Miss Edith A. Goodspeed and contain a useful collection of data, though a question may be raised regarding the discussion of the equal protection clause. This portion of the book deals also with the exclusion and expulsion of aliens; but the analysis of the immigration act of 1924, with its many innovations, is rather sketchy. The outline of the gradual improvement in the status of aliens is well done up to the final point, but there is inadequate presentation of the present situation in international law. One misses a reference to Judge Moore's excellent suggestion that the alien's resort to diplomacy is in lieu of the citizen's power to change conditions by the ballot.

The second division of the book, in the words of the author, "deals only with the cytology of community being." A rather complete biological analogy is suggested. Dr. Cleveland says that his "approach to political science is that of the psychologist." There is an interesting discussion of sovereignty, applying the logic of such writers as Bodin by "impersonation of the people" and proposing the American conception of sovereignty "as a verifiable historic fact." The state is regarded as the "subject" or "creature" of the sovereign. The reviewer welcomes Dr. Cleveland's uncompromising assertion that "in no case is sovereignty unlimited." The discussion of loyalty, allegiance, disloyalty, treason, and sedition is stimulating. The concluding chapter is a brief discussion of "education" from the pre-natal to the senile period. Of special interest to the student or teacher is the instructive "Questionnaire and References to Special Readings." There is also a bibliography.

PHILIP C. JESSUP.

Columbia University.

Readings in American Government. FINLA GOFF CRAWFORD, EDITOR. (New York: Alfred A. Knopf. 1927. Pp. xii, 800.)

This volume is somewhat unique among enterprises of its kind. The author has deliberately set out to avoid the pitfalls that have bemired most previous adventurers in this field. This is not a source book. Scarcely ten of its hundred and sixteen selections are of a documentary

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nature. All the rest is secondary material. It consists, for the most part, of articles that have appeared in various scholarly journals from the pens of Professor Crawford's academic contemporaries. The balance are unsigned items culled from groups of responsible publications such as *Good Government*, *The Proportional Representation Review*, *The Congressional Digest*, and others. The preponderance of articles of rather recent date from members of the profession and those in its penumbra render this venture something of a composite text-book. In other words, it possesses a unity of treatment, style, and point of view that put it ahead of all but one or two volumes of "readings." It is the best book in the general introductory field. Its size and scope are a trifle formidable. It includes the colonial background, parties, administration, finance, territories, courts, and others—a total of twenty-nine subjects. This fault—and many will not agree that it is one—cannot be laid at the door of the compiler, but rests with those who determine the form and content of the introductory courses in our colleges.

It remains for some even more intrepid soul to undertake a case-book in government. The economists now have them, and the conventional text-book of economic principles is yielding its wonted place. The task in political science is much more difficult, because individual and small-scale enterprises cannot so readily be used to illustrate the problems at large. The transactions of the general store in Munnsville may illustrate supply and demand, monopoly price, and a dozen other economic realities applicable, *mutatis mutandis*, to even the Standard Oil Company's multifarious operations. But can Munnsville shed any light on the police, traffic, or housing problems of any good-sized city? Any satisfactory analysis of the many factors in any of these problems would be a volume in itself. Yet a genuine problem-book might have ten times the pedagogic value of even the most lucid and comprehensive text-book.

JOSEPH MCGOLDRICK.

Columbia University.

The Modern Development of City Government in the United Kingdom and the United States. By ERNEST S. GRIFFITH. (New York: Oxford University Press. 1927. Two volumes. Pp. xx, viii, 745.)

This is a significant addition to existing studies on municipal government. Written by an American after several years in England, it discusses the difficulties and problems of British cities more closely, and

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its most important proposal aims at the improvement of conditions in the British cities.

The first and larger volume is historical, dealing mainly with the period since 1870, when American cities were at the low ebb. Since then, he traces the conflicting forces in both countries, with partial improvements to 1900, while since the latter date the advantage has been with the United States.

In the second volume, the author analyzes the political and economic factors in the two countries—the legal basis of city government, functions, framework, finances, central-local relations, public opinion, and the quality of government, concluding with a general summary and recommendations. He finds in the United Kingdom a high spirit of public service, integrity, respect for public officers and for law; but defects in framework, excessive central control, an inadequate system of local taxation, and a decline in local ability, resulting from class privilege. In the United States there is more local autonomy and initiative, more efficient framework of government, and more equality of opportunity; but also corruption and disrespect for public officers and law, due to a mistaken belief in the equality of ability.

His principal recommendation for American cities is a psychological change of attitude, to abandon the assumption of equality of ability and to develop respect for officials and for law. He recognizes difficulties in bringing about such a change, but does not face the problem of breaking into the vicious circle of official dishonesty and popular distrust of public officers.

For British cities, he makes a more definite proposal for a local tax on the capital value of land, to replace, not the local rates on occupiers, but the grants-in-aid from the central government, and thus to weaken the system of central control and promote greater local freedom. He fails to recognize, however, that while this proposal is more definite, its adoption will also require a change in British psychological attitude, besides raising questions as to the economic merits of the proposal.

On some phases of American conditions, Mr. Griffith's discussion is inadequate. In upholding a tax on capital value he ignores the difficulties and criticisms of the administration of real estate assessments in America; and in comparing the relative central control in the two countries, he does not mention state control over public utility services in the United States.

There is an extensive bibliography, which, however, includes few items later than 1922, and does not list the Webbs' studies on English local

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government in the eighteenth century. A series of appendices presents financial and other statistics and data on the occupations of English town councillors and the development of English council committees.

JOHN A. FAIRLIE.

University of Illinois.

Guiding Principles of Public Service Regulation. BY HENRY C. SPURR. (Rochester: Public Utilities Reports, Inc. 1924, 1925, 1926. Three volumes. Pp. lxxv, 752; lxxx, 750; cxxvi, 919.)

This is a monumental work prepared by the editor of Public Utilities Reports, Inc., which for many years has covered regularly the decisions and opinions in public utility cases throughout the country before both the commissions and the courts. The work consists of three volumes. Volume I (pp. lxxv, 752) consists of twenty-five chapters and covers, in general, the fundamental conditions which have brought about public utility regulation; the scope of regulation and the jurisdiction of the commissions and courts; the general requirements of reasonable rates; and the more general aspects of valuation for fixing the basis of the return to the companies. It covers in detail the considerations of reproduction cost, original cost, general expenditures, developmental costs, going value, and other miscellaneous intangibles.

Volume II (pp. lxxx, 750) contains Chapters XXVI to LI inclusive and covers numerous special aspects of valuation and the scope of operating expenses included for rate-making. Under the heading of valuation it treats extensively pavements over mains, land and buildings, property not used and useful, superseded properties, reserve facilities, property acquired for future needs, donations, payments out of surplus, working capital, depreciation, amortization, and the treatment of extraordinary expenditures. The treatment of depreciation covers the kind of depreciation, how computed, the maintenance of funds and reserves, and the determination of rates and charges for various classes of property.

Volume III (pp. cxxvi, 919) contains Chapters LI to LXXVII, and covers the determination of the return to which the companies are entitled and the fixing of rate schedules. As to the rate of return, it presents the general considerations of a reasonable return and treats separately the factors to be considered, including the need to attract capital, the efficiency of management, and return during abnormal periods. The greater part of this volume is devoted to rate schedules. While, in general, rates are based upon the reasonable cost of service,

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including a fair return on the property, the costs are borne through the rates fixed for service, and there are great variations in the level of rates paid by the various classes of consumers. The volume considers the kinds of costs in relation to particular kinds of rates, the reason for rate differentiation, especially the load factor and the special demand factor, the minimum charge, service charge, demand charge, sliding scale, large quantity rates, and contract rates. It presents also rate schedules for the principal utilities, including water rates, gas rates, electric rates, street railway rates, interurban railway rates, and telephone rates.

The three volumes together cover concretely the work of the commissions, as well as the court decisions, for the past twenty-five years or more, since active regulation began. They present the various considerations that have entered into rate-making and other phases of regulation. They consist primarily of quotations from opinions and decisions on the various subjects and points considered, with copious footnote references, with excellent subdivision of subjects, and with adequate explanatory and transitional matter. They offer little independent analysis and practically no constructive proposals for more effective regulation. They treat the vast amount of controversial ground fairly and reasonably, presenting decisions and opinions, without bias, from all points of view. Their object is to present compactly and completely what has been decided and what opinions have been expressed by the various bodies dealing officially with regulation.

The work furnishes conveniently the citations bearing on each particular subject and will save the time and effort required to work through many volumes of public utility and court reports. The quotations have been aptly selected from the various commissions and courts. Variation of policy and procedure is adequately presented. Each volume is separately indexed, contains a detailed table of contents, and has an alphabetical list of the cases cited. The work is primarily a source-book of public utility information for analysis on valuation and rate-making and other phases of regulation. There is a great deal of unavoidable repetition.

JOHN BAUER.

American Public Utilities Bureau.

The Political Career of Stephen Mallory White. By EDITH DOBIE. (Palo Alto: Stanford University Press. 1927. Pp. 266.)

This study, prepared under the guidance of Professor Robinson and presented by Miss Dobie as her doctoral dissertation at Stanford, repre-

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sents the direction which many investigators must follow before we can understand the workings of American politics in more concrete detail than we already do. It is a valuable piece of work. The library of Stanford University possesses in the papers of the late Senator White of California a unique collection consisting of more than a hundred books of letters written by or to him. These records of communication between a rising political figure on the one hand and a host of office-seekers, office-holders, editors of country newspapers, business men, railroad lawyers and populist agitators on the other, uncovers a typical interplay of the forces which determine the nature of American political life. We are familiar with the forces; but what we sometimes forget in contemplating their vastness and inexorable march is that they work through human individuals, through persons, and for the most part through persons obscure, outwardly uninteresting, but always numerous. If English politics is the familiar story of a comparatively few dramatic and outstanding personalities, American politics is the largely forgotten story of the small objectives and petty quarrels of multitudinous local characters, now aiding, now blocking, one another, but often strong, racy, and humanly interesting on their restricted stage.

Senator White's correspondence presents us with a whole gallery of such characters, and Miss Dobie has wisely let it develop its own story without forcing it into premature generalizations, or applying to it the categories of an abstract psychology. It is a story which shows in a vivid way how the leaders who emerge to the stage of national politics are the men who by accident or skill have steered their bark safely through the complicated shoals and reefs of local manipulation. It is a story, too, which sheds a flood of light on party government in the United States—which reveals the locality as the active cell of party life, with its own factions based on differences of principle as well as on the ambitions of rival leaders, and often resulting in local coöperation between one faction within one party and another in the rival party. Miss Dobie's book weaves out of local materials the pattern of California politics during the period of Senator White's activity, reaching from 1879 to 1899. Until the political history of the other states is written from material equally full, we shall be a long way from understanding the operation of cause and effect on the broader theater of national politics.

JOHN DICKINSON.

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The Ethical Basis of the State. By Norman Wilde. (Princeton: Princeton University Press. 1924. Pp. 236.)

This work considers the central problem of all significant political philosophizing—the problem of the services of the state to individuals. What are the things which states can do better than other social institutions? How must the state be organized and with what kinds and degrees of authority and power must it be invested in order that it may best do those things? Professor Wilde gives first a brief, clear, and critical résumé of some important and typical answers from the past—from Plato to Laski; and then, in the major portion of the book, sets forth interestingly his own answers. His general attitude is neither absolutistic nor pluralistic. He does not exalt the state, as did Hegel, Treitschke, or Bosanquet; the state is only able, through various positive and restrictive activities, to prepare conditions favorable to the working out of personal capacities by individuals for themselves; and actual states perform such tasks blunderingly and inadequately. Hence a state cannot make excellent individuals. But neither can any smaller association; and the excellence and happiness of an individual can be as easily and effectively stifled by his "functional" association as by his state. Professor Wilde's position is monistic in what is possibly the prevailing traditional sense of the term. He holds that the state has a distinctive and legally superior position in coördinating the activities of individuals and groups so as to make social coöperation compatible with individual self-development.

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BRIEFER NOTICES

AMERICAN GOVERNMENT AND CONSTITUTIONAL LAW

The most recent Service Monographs of the United States Government, published for the Institute for Government Research by the Johns Hopkins Press, are Numbers 44 and 45 on *The Panama Canal*, by Darrell H. Smith (pp. xvii, 413), and *The Medical Department of the Army*, by James A. Tobey (pp. xii, 161). Like the preceding monographs, each study covers the history, activities, and organization of the service and includes a digest of the laws, financial statements, and bibliography of works pertaining thereto. The volume on the Panama Canal is perhaps of greater interest because of the lack of information on this subject,

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and also because it presents an example of most successful public administration. The Johns Hopkins Press has also published for the Institute for Government Research two volumes in the Institute's Studies in Administration which are of special importance: *The National Budget System, with Suggestions for Its Improvement* (pp. xvi, 343), and *The Legal Status and Functions of the General Accounting Office* (p. 193), both of which were written by Dr. W. F. Willoughby. These two books will be reviewed at length in an early issue of the REVIEW.

The Constitution Explained, by Harry Atwood (Harcourt, Brace and Company, pp. ix, 209), attempts to present "in simple and non-technical language, the constitution, its background, its plan and purpose, and its constituent elements." After describing the events leading up to the Constitutional Convention and the work of the convention, the author presents the text of each clause of the Constitution followed by an explanation thereof. There is a long list of questions at the end of each chapter, an appendix containing a brief biography of each of the framers of the Constitution, and suggestions for further study. The point of view is conservative, as is shown by the author's opposition to the initiative, referendum, recall, direct primary, and the inclusion of the Eighteenth Amendment as placing legislative detail in the Constitution. The author has given an excellent analysis of the Constitution. The chief criticism is the failure to explain the changes made by custom, statutes, and judicial interpretation; but this perhaps was beyond the purpose of Mr. Atwood and would have required a book of less simple nature and larger proportions. It is, however, somewhat disconcerting to find that this is the only comment on the "due process clause" of the Fourteenth Amendment: "The purpose of this section of Amendment XIV was to give the former slaves the status of citizenship."

State Rights and National Prohibition, by Archibald E. Stevenson (Clark Boardman Company, pp. 157), is a well written, carefully documented, but not altogether convincing, nor practical, constitutional argument against the Eighteenth Amendment. The author holds the view that the states were sovereign at the time of the adoption of the Constitution and that one of the purposes of that document, especially through Article X, was to protect the sovereignty of the states. In his opinion the Tenth Amendment was designed to prevent any construction of the Constitution which might authorize the enlargement of federal power at the expense of "reserved state sovereignty" and was therefore a limitation upon the amending clause. Hence it follows that the

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Eighteenth Amendment is a usurpation of state sovereignty, since it is a regulation of a matter which was reserved to the states, and, if the proper construction of the Constitution were followed, should be limited in its application only to the transportation and sale of liquor in foreign and interstate commerce.

The American Year Book for 1926 (pp. xvii, 1178), edited by Albert Bushnell Hart and William M. Schuyler and published by the Macmillan Company, has been extended in scope over the issue of 1925. There are about twenty additional pages and some forty new subjects. Like the 1925 volume, special attention is given to political developments (401 pp.), with sections on American political history during 1926, international situations affecting the United States, citizenship, the national government, state and county government, municipal government, territories, public law and jurisprudence, public resources and public works, public services and utilities, public finance, taxation, defence and armaments. There are ample statistical data, and many of the sections are supplemented with a selected list of references. Every teacher of government should have access to this invaluable source of information. The publication of the Year Book is made possible through the financial assistance of Mr. Adolph Ochs, of the *New York Times*.

Instructors in the fields of constitutional law and state government will find much light thrown on a complicated subject by H. A. Haring's *Corporations Doing Business in Other States* (The Ronald Press, pp. 302). The author explains the meaning of "doing business in other states" as interpreted by the courts of the various states, the demarcation between doing business in a state and engaging in interstate commerce, the restrictions placed upon foreign corporations by the different states, and what corporations should do to avoid legal difficulties. The author has presented his material in such a way as to clear up many obscurities in the mind of a person without legal training.

In 1830 Jeremy Bentham, at the age of eighty-two, was moved by the reading of Andrew Jackson's first message to Congress to send to Jackson a rambling letter and also certain fragmentary notes under the general title of *Anti-Senatica*. These have now been published for the first time in the Smith College Studies in History (Vol. XI, no. 4, pp. 209–267), with an introduction by C. W. Everett. Bentham's chief objections to the Senate were that it was an imitation of the English House of Lords and that, as a check upon the directly elected House of Representatives, it functioned in such a manner as to thwart the im-

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mediate expression of the public will. As stated by the editor, it is only necessary to read the material, with its peculiar form and wording, to learn its probable effect on Jackson.

Economic Government in the United States, by A. H. Dixon (McIndoo Publishing Company, Kansas City, Mo., pp. 172), is in large part a criticism of the Sixteenth Amendment and the federal income tax, which the author regards as contrary to the fundamental nature of the government established under the constitution of 1787 and also as the cause of "higher prices for necessities, bankrupt farmers, ruined business men, ... hungry children and despondent homes. . . . . " As a relief to present conditions the author proposes repeal of the income tax amendment, prohibition of federal subsidies, prohibition of tax-free securities, and the placing of tariff and excise taxes at a point where they will furnish sufficient income to carry on the government.

The Law of Radio Communication, by Stephen Davis (McGraw-Hill Book Company, pp. viii, 206), which won the Linthicum Foundation prize of the Northwestern University Law School, is a thorough legal discussion of the right to engage in radio communication, federal jurisdiction, the radio act of 1927, conflicting rights in reception and transmission, broadcasting, libel, and slander. A final chapter deals with the radio and international law.

FOREIGN AND COMPARATIVE GOVERNMENT

The number of books on Russia indicates that the publishers consider the reading public to have an insatiable curiosity on this subject. The Macmillan Company has just published three of them: *Bolshevist Russia*, by Anton Karlgren (pp. 311); *The Russian Revolution*, by Lancelot Lawton (pp. 524); and *The Famine in Soviet Russia 1919–1923*, by H. H. Fisher (pp. 609). Of these the first is of most interest to those who wish to learn of the political situation, as it deals with the organization and administration of the Soviet government. Agricultural and industrial conditions are also discussed and the "new economic policy" is treated at length. The author of this book (which was originally written in Swedish) is professor of Slavic at the University of Copenhagen and he has been clever enough to make the bolshevists denounce the weak spots in soviet rule by quoting their own official publication, the *Pravda*. The second book is more decidedly anti-bolshevist and less scholarly. It is an interesting account, however, being the work of an Englishman who has spent much time in Russia,

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has a Russian wife and therefore substantial connections with that country, and whose last visit was made in behalf of *The Daily Chronicle*. The third book of the group is an account of the operations of the American Relief Administration. Two other books on Russia have also been received: *The Historic Origin and Social Development of Family Life in Russia*, by Elaine Elnett (Columbia University Press, pp. 151), which is, in general, a history of the position of women up to the time of the Revolution; and *The Russian Imperial Conspiracy*, by Senator Owen of Oklahoma (Albert and Charles Boni, pp. 212), which is an attempt to place the blame for the World War upon the shoulders of the imperial government.

The Functions of an English Second Chamber, by G. B. Roberts (Allen and Unwin, is largely a discussion of the conclusions of the Bryce Conference on Second Chamber Reform (1918). The defects of the House of Commons, Mr. Roberts argues, justify the existence of a second chamber and determine its proper functions, which are: revision of legislation from the Commons, initiation of non-controversial legislation, and discussion of broad public questions. He disagrees with the findings of the Conference in the matter of a "suspensive veto," on the ground that its existence may enable a ministry to evade full responsibility for legislative proposals and its exercise may divert public attention from the real issue—the merits of the bill rejected—to the fictitious issue of a conflict between the houses. The Parliament Act of 1911 and the proposals of the Conference for a smaller upper house, elected partly by the peers and partly by the House of Commons, are substantially a satisfactory foundation for a reconstituted upper chamber. Although introducing little new evidence and few new ideas, the book is to be commended as an impartial and lucid discussion of the problem.

A good primer of Chinese affairs is *The Crisis in China* (Little, Brown and Company, pp. 259), by Lieutenant Colonel Etherton, late British consul-general for Chinese Turkestan and additional assistant judge of the British Supreme Court in China. As shown by his titles, Colonel Etherton has plenty of first-hand information and his narrative includes events up to and including April, 1927. Quite different from this simple, straightforward, utterly British account is *In China*, by Abel Bonnard (E. P. Dutton and Company, pp. 361), which, in the original, won the grand literary prize of the French Academy and which gives us the viewpoint of a Frenchman and a Catholic. This latter book covers only the period 1920–21 and touches very slightly upon political affairs, but gives a vivid picture of social and economic conditions.

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Wesen und Werden des fascistischen Staates, by Dr. Erwin v. Beckerath of the University of Cologne (Julius Springer, Berlin, pp. 155), is a thorough and scholarly account of the causes, growth, and present aspects of fascism in Italy. Density of population and meagerness of agricultural resources as compared with Russia forced Italy away from the wasteful program of bolshevism. These economic causes led to such an assimilation of state, party, and trade union that the author compares the working of Italy's present government to that of an absolute monarchy of the seventeenth and eighteenth centuries.

Rome's contribution to the science and practice of government is amply discussed in the second volume of M. Rostovtzeff's *History of the Ancient World* (pp. 387), which has just been published by the American Branch of the Oxford University Press. This volume, entitled *Rome*, covers the period from the earliest known times in Italy to the reign of Constantine. The many beautiful plates, accompanied by excellent explanatory notes, are a great aid in presenting the material. Maps, an index, a bibliography, and a chronology, help to make this a useful as well as an authoritative work.

Bessarabia, by Charles Upson Clark (Dodd, Mead Company, pp. 333), provides a fund of information about that little-known, turbulent province. Political and business conditions are the main theme, after a brief introductory historical sketch. Much of the book is too detailed for interesting reading, but it is of value as a collection of hitherto unavailable material.

After reading *Mother India*, by Katherine Mayo (Harcourt, Brace Company, pp. 440), which is a study of the public ill-health of India, one wonders how there can be any one alive at all in that country, to say nothing of its teeming millions. The appallingly unsanitary conditions and customs which prevail are vividly discussed and render the book a sort of chamber of unhygienic horrors.

East Africa, a New Dominion (H. F. and G. Witherby, London, pp. 315), by Major A. G. Church, a member of the East Africa Parliamentary Commission, describes the present situation in Kenya and the plans to create a new Dominion of East Africa. Despite the fact that the writer is a member of the Labor party, he writes sympathetically of white settlement. He does, however, oppose freehold land tenure and advocates a land tax. He also advocates native representation on the mandate commission of the League.

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The Anatomy of African Misery (The Hogarth Press, London, pp. 234), by Lord Olivier, the secretary of state for India in the Labor government, is a rather violent attack upon color-bar legislation in the Union of South Africa. He calls it "a menace to the peace of the world."

Slavery or "Sacred Trust?" (Williams and Norgate, Ltd., London, pp. vi, 195), by John H. Harris, the secretary of the Anti-Slavery and Aborigines Protection Society of England, is an attack upon forced labor in the tropics. The author pleads for the establishment of the mandate principle in all of the colonies.

The lectures delivered by A. Mendelssohn-Bartholdy, director of the Institute of Foreign Policy of Hamburg, at Williamstown in 1926, published under the title of *The European Situation* (Yale University Press, pp. viii, 115), treat in a rather sketchy manner a number of European and African questions. Perhaps the most interesting part of the book deals with the opening of the German archives.

Die Staatsverwaltung der Besetzen Gebiete, I. Band, Belgien, by Dr. Ludwig von Köhler, former chief of the department of commerce and industry under the governor-general of Belgium (pp. 239), has been published for the Carnegie Endowment for International Peace by the Yale University Press. This account of an occupied territory from the viewpoint of the military occupier is intended to serve as a basis of comparison for similar situations, and therein lies the value of the book, rather than as a source of material about the war-time problems of Belgium.

Economic and Social Conditions in France During the Eighteenth Century, by Henri Sée, professor at the University of Rennes, translated by Edwin H. Zeydel (Knopf, pp. lx, 245), was originally published as *La France économique et sociale au XVIIIe siècle*. It is a concise but comprehensive summary, interesting and well documented.

INTERNATIONAL LAW AND RELATIONS

A second edition, considerably revised, of Professor George Grafton Wilson's *Handbook of International Law* has been published by the West Publishing Company (pp. xxi, 567). A comparison of the revised edition with its predecessor would seem to indicate that Professor Wilson believes that the World War has not materially changed the fundamental concepts of international law. "There were many who expected revolutionary changes in international law after the World War. The number

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of changes, however, have been as elsewhere fewer than anticipated" (preface to 2nd ed., p. v). The book is written in the clear and concise style which is characteristic of Professor Wilson's works. The treatment of the problems considered is complete and supported by a careful selection of relevant citations. In this connection it is a pleasure to observe that the citations, footnotes, and appendices nearly always consist of references to, or quotations from, original source material. At the same time, a brief but, for ordinary working purposes, sufficiently comprehensive bibliography of secondary works is included at the beginning of the book. Probably the most valuable part of the revised edition is the discussion of the law of naval warfare. It is the work of a man who not only is a profound student of the subject but who also understands the practical aspect of the problems involved and the international realities of the situation. In this regard it will be recalled that Professor Wilson served as American delegate plenipotentiary at the London Naval Conference in 1908–09, as one of the legal experts attached to the American delegation at the Limitation of Armaments Conference in 1922, and that he has been professor of international law for many years at the United States Naval War College. In the circumstances it is but natural that his exposition of the law of war on the sea leaves little to be desired. Naval officers who have so frequently expressed a wish for an adequate general treatment of the subject will find it in Professor Wilson's book. The discussion of the problems which arose during the World War is refreshingly impartial.

The State Department has begun a very interesting experiment in the recent publication of a volume entitled *Mandate for Palestine*, prepared by the Division of Near Eastern Affairs (Government Printing Office, pp. vii, 114). The purpose of the Department in undertaking this experiment is to make available to students of international law and foreign affairs correspondence and other documents in which they may be especially interested. This particular volume, as the first of a contemplated series, carries out that purpose by presenting material arranged in four parts: (1) an introduction, explaining terms and recapitulating the principal events and international agreements leading up to the conclusion of the American-British mandate convention of 1924 with respect to Palestine; (2) the correspondence of 1920 with the British government, and that with the Council of the League of Nations, referring to economic rights in mandated territories; (3) notes and memoranda of the period 1921–25, constituting the principal documents which resulted in the conclusion of the above-mentioned

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convention; (4) the complete text of the convention itself. Altogether the volume contains thirty-two documents in the form of notes and memoranda, in addition to the convention of 1924 and the introductory material, presenting a documentary exposition of the position of the United States, not only with respect to the Palestine mandate but also with respect to the Class A mandates in general. This particular volume is, therefore, a most convenient source for students of American foreign policy and of the special subject of mandates. The foresight of those responsible for the project—the reviewer strongly suspects that Mr. Tyler Dennett, the able chief of the Division of Publications, deserves considerable credit—is to be warmly commended, and it is earnestly hoped that the Department will see fit to continue the publication of such volumes. It may be noted that the present volume cannot be obtained from the Department of State, but only from the Superintendent of Documents. C. A. B.

The Deutschen Hochschule für Politik in Berlin and the Institut für Auswärtige Politik in Hamburg have jointly published the following: (1) A. Mendelssohn Bartholdy, *Diplomatie. Rede gehalten bei der Jahresfeier der Deutschen Hochschule für Politik. Mit Dokumenten-Anhängen.* (2) *Die Entscheidungen des Internationalen Schiedsgerichts zur Auslegung des Dawes-Plans. Deutsch herausgegeben von M. Schoch. Erste Session I Teil: Sozialversicherung in Elsass-Lothringen und Polnisch-Oberschlesien.* (3) *Die Entscheidungen des Internationalen Schiedsgericts zur Auslegung des Dawes-Plans. Deutsch herausgegeben von M. Schoch. Zweite Session: Entschädigung wegen der Beschlagnahme und Liquidation deutschen Eigentums.* The purpose of the pamphlets, as of the two schools coöperating in their publication, is the education of the German public politically. Others dealing with the mandate system, the Upper-Silesian controversy, and similar subjects are in preparation. The thesis of the address by Mendelssohn Bartholdy is that the old diplomacy, wholly in the control of the aristocracy and the irresponsible government, was wrong as well as unsuccessful. The German government is now following a new policy more in accord with democratic principles. He describes the "new diplomacy," emphasizing particularly the use of the personal conference of responsible statesmen, such as occurred at Locarno. The appendix contains copies of documents in the German Foreign Office files substantiating the author's views. The second and third pamphlets contain the records of the first two cases to be pleaded before the court of arbitration set up by the Dawes Plan, together with the decisions. In the accompanying criticisms

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it is evident that Dr. Schoch has striven to be objective. The court of arbitration, in her opinion, represents *Rechtpolitik*, as compared with the League of Nations, which in Germany is still generally considered as governed by *Machtpolitik*. H. B. C.

The International Government of the Saar, by Frank M. Russell (University of California Press, pp. 137), is an excellent detailed account of the manner in which the government of the Saar Basin has been carried on under the terms of the treaty of Versailles. Mr. Russell has concerned himself primarily with a study of the political aspects of the Saar problem, but has incidentally made a fairly comprehensive survey of the functioning of the League and of its governing commission. The study is thoroughly impartial, and the concluding observations sane and moderate. The author feels that the administration of the Saar has been about as successful as could be expected in view of the extraordinarily difficult circumstances, and that "the Saar experiment has demonstrated that the new League processes are undoubtedly superior to the diplomatic processes of the pre-war period." His expectation that even better results may be looked for in view of the more generous spirit beginning to prevail in Europe would no doubt have been considerably strengthened and more positively asserted had the study borne the imprint of 1927 instead of 1926. An excellent bibliography of both source and secondary material is appended. C. A. B.

The Relation of Thomas Jefferson to American Foreign Policy, 1783–1793 (Johns Hopkins University Studies in Historical and Political Science, Series XLV, No. 2, pp. ix, 128), by Professor William K. Woolery, of Bethany College, is based on an examination of the unprinted Jefferson papers in the Library of Congress, as well as on the printed sources, and deals with a complicated web of events in a mature and comprehensive way. On the whole, it perhaps errs in the direction of too great compactness. While yielding no startling departure from generally accepted views, it underscores the constructive part played by Jefferson in initiating some of the most characteristic lines of American foreign policy, for example, our peculiar application of the most-favored-nation clause, as well as our doctrine of the rights of neutrals. The book does excellent service toward demolishing the caricature of Jefferson as a purely doctrinaire statesman by setting in relief the strongly realistic quality of his political attitude. His views seem always to have been shaped severely in the light of economic needs and conditions and political possibilities, occasionally at the risk of seeming inconsistencies.

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H. Lauterpacht's *Private Law Sources and Analogies of International Law, with Special Reference to International Arbitration* (Longmans, Green and Company, pp. xvi, 326) is of special value in its treatment of Article 38 (3) of the statute of the Permanent Court of International Justice to the effect that "general principles of law recognized by civilized states" shall be applied. The result vindicates the resort to rules and conceptions of private law for the purpose, in this connection, of developing international law. The author also brings together a large amount of material from international arbitral proceedings.

Roosevelt and the Caribbean (University of Chicago Press, pp. ix, 233), by Howard C. Hill, traces the policy of President Roosevelt toward Panama, Cuba, Venezuela, and Central America generally. The author believes that political, rather than economic, considerations determined Roosevelt's course—a policy described as "benevolent imperialism." Mr. Hill has made a thorough use of the sources, including the Roosevelt papers in the Library of Congress.

Chile and Its Relations with the United States, by Henry Clay Evans (Duke University Press, pp. x, 243), is a survey of the relations between the United States and Chile through the Tacna-Arica controversy. Despite the existence of official documentation, the author seems to have relied for his recent facts upon the *New York Times* and other secondary sources. The book is poorly bound.

Building International Goodwill, published by the Macmillan Company (pp. xvi, 237), contains articles by various peace writers on such subjects as war debts, arbitration, disarmament, League of Nations, World Court, outlawry of war, the religious basis of peace, etc. The object of the book "is a serious effort to assemble into one volume a résumé of the various constructive methods which are being brought forward in the interest of universal peace."

The Problems of Peace (Oxford University Press, pp. viii, 365) contains a group of lectures, mostly by officials in the League of Nations secretariat, delivered at the Geneva Institute for International Relations, conducted jointly by the League of Nations Union and the League of Nations Non-Partisan Association, and which was attended by the Carnegie tour of American professors.

Local Government

City Health Administration, by Carl E. McCombs, M. D. (Macmillan Company, pp. x, 254), is based largely upon the surveys of municipal

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health work made during the last fourteen years by the New York Bureau of Municipal Research, with which the author has been connected. Part I deals with municipal health functions in general; Part II with the organization and administration of sickness preventive functions; and Part III with the organization and administration of sickness treatment functions. This is the most satisfactory general work known to the reviewer describing what the municipal health agency should do for public health betterment, and how it should be organized and administered for the purpose. The book is well organized and written in readable, non-technical language. Although intended primarily for students of municipal administration, for public officials without professional training, and for laymen, it should be helpful to physicians and public health officials as well. Dr. McCombs' volume should take its place with other works such as Fosdick's *American Police Systems*, Graper's *Police Administration*, and Buck's *Municipal Finance*, as an outstanding contribution to the study and practice of municipal administration. Somewhat more technical in nature, but equally thorough, is *Hospital Law*, by John A. Lapp and Dorothy Ketcham (The Bruce Publishing Company, Milwaukee, pp. xxxiv, 557). The aim of this substantial volume is to bring together all that exists in laws and court decisions of the various American states regarding hospitals, both public and private. The parts which are of most interest to students of government are the chapters on the liability of public hospitals, taxation exemption of hospitals from taxation, public aid to hospitals, the hospital as a nuisance, and charitable trusts. Almost a thousand cases are cited, parts of important court decisions are included, extracts from constitutional and statutory provisions dealing with hospitals in all of the states are printed, and there is a fifty-seven page appendix containing a digest of hospital laws. The authors have rendered a unique service both to the public and to those interested in public welfare administration.

Teachers of state and local government will be interested in *The Development of State Control of Public Instruction in Michigan*, by George L. Jackson, professor of education at the University of Michigan (Michigan Historical Commission, pp. 381). The author shows how Michigan, starting with "local control in the small district system, borrowed from New England . . . . has gradually changed her plan and seems now about to be wedded to a policy of state control."

Trends of Population in the Region of Chicago, by Helen R. Jeter (University of Chicago Press, pp. 64), should interest workers in the

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fields of municipal government and regional planning. The study gives the historical factors in the growth of population in the Chicago region, the growth and present distribution of population, and the predicted growth and distribution to 1950. The survey was made on behalf of the Local Community Research Committee of the University of Chicago and the Commonwealth Club of Chicago. There is a foreword by Professor C. E. Merriam.

State Administrative Review of Local Budget Making (Municipal Administration Service, Publication No. 3, 1927, pp. 40), by Wylie Kilpatrick, is an unbiased appraisal of the need for and the effects of state supervision of local taxes, bonds, and budgets as exemplified by recent experience of Indiana and Iowa. In a forthcoming book to be issued by the Institute for Government Research, the author will discuss state supervision of local finance in all of the forty-eight states.

Political Theory and Miscellaneous

In *The Commonplace Book of Thomas Jefferson* (Johns Hopkins Press, 1926, pp. 403) Professor Gilbert Chinard, of Johns Hopkins University, carries forward his studies of Jefferson's intellectual activities, already mentioned in the Review (Vol. XXI, pp. 198–199), by printing a manuscript note-book preserved in the Library of Congress in which Jefferson made extracts from the books he read, the entries almost all dating from the years prior to 1776. The importance of discovering the stock of political ideas at the disposal of the statesmen of the generation which framed our constitutions can hardly be over-estimated; and practically the only clue to this discovery lies through knowledge of what they read. It is, therefore, extremely fortunate that this note-book escaped the fire of 1770 which destroyed Jefferson's other early papers and that it has survived later accidents until Professor Chinard could put its contents beyond the danger of destruction. The first half of the manuscript represents Jefferson's professional studies and consists of law-cases summarized from Andrews, Salkeld, Lord Raymond, and other old English reporters. This part Professor Chinard has wisely determined not to reprint in full. The material he presents consists of a series of extracts and summaries from such books as Lord Kame's *Historical Law Tracts*, Dalrymple's *History of Feudal Property*, Pelloutier's *Histoire des Celtes*, Stanyan's *Grecian History*, Temple's *Observations on the Netherlands*, Molesworth's *Account of Denmark*, Sullivan's *Feudal Laws*, Ramsay's *History of the British Constitution*, Montesquieu's *Spirit of Laws*, etc. These extracts show that Jefferson had given himself a

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thorough course in what we should today call comparative government and the history of institutions, based on the best authorities available at the time. His views were framed in the light of his reading of historical facts; Professor Chinard comments on the striking absence of extracts from the political philosophers. From this reading Jefferson appears to have reached conclusions similar in their main outlines to those associated a century later with the name of Freeman. His notes indicate the view that liberty was peculiarly the possession of primitive peoples, and especially of the Anglo-Saxons, and that subsequent restrictions on this original freedom were the work of encroachments by privileged classes. Hence his political ideas were dominated by the notion of a return to the Anglo-Saxons.

The Privy Council of England in the Seventeenth and Eighteenth Centuries, 1603–1784 (Johns Hopkins Press, pp. xiii, 450) is the first of two volumes which will constitute the first part of a projected work of monumental proportions. The second part, to be entitled "The Cabinet Council in the Seventeenth and Eighteenth Centuries," also in two volumes, the author, Professor Edward R. Turner, tells us, is "completely written and awaits a publisher—difficult to find for a large work of this sort." The concluding part, "King, Ministers, and Parliament in the Seventeenth and Eighteenth Centuries," is partly written and is designed for publication in the future. It is to be hoped that the design will be fulfilled. The present volume carries the story of the privy council from the accession of the Stuarts to the crisis of 1679, which definitely indicates that the council as an institution was no longer able to perform the part expected of it, and which marked the beginnings of the realignments that ultimately resulted in the emergence of cabinet government. In connection with this crisis the author takes occasion to question the part which has almost universally been assigned to Sir William Temple. The central portion of the book is important for the amount of space given to the interesting period of the Commonwealth and Protectorate, a veritable *officina* of political experiment. On the whole, the development traced throughout the volume illustrates that just as the Tudor council was itself the result of the differentiation of a more comprehensive earlier organ, so during the Tudor period the council began to show signs of yielding to the operation of the same law.

Sir John Fox's recent book entitled *Contempt of Court* (Oxford University Press, pp. x, 252) affords excellent proof, if any were necessary, of the truth of the late Professor Gray's statement that the most

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valuable juristic writing is the monograph on a selected topic. Contempt of court is defined by the author as disobedience to the processes and orders of the court or obstruction of the administration of justice. The central points discussed are two: (1) criminal contempts committed by a stranger out of court in early times were proceeded against with the aid of a jury, and not summarily, unless the contempt were confessed, and (2) the punishment consisted of imprisonment, with the option of being discharged on payment of a fine, but never by fine and imprisonment. The author believes that the modern method of proceeding summarily against criminal contempts, committed out of court, rests on a misconception of what was immemorial usage in the common law. In view of the authorities disclosed by the patient research of the learned author, it is difficult not to agree with his conclusions. He presents his proof in thoroughly lawyer-like fashion. Those persons who protest against summary procedure in criminal contempt will find much historical support for their position. Those who deny the constitutionality of legislative enactments regulating the punishment of contempts would do well to read the book carefully. It deserves the thoughtful attention of all persons interested in the improvement of the administration of criminal justice. W. H. N.

Immigrant Backgrounds (John Wiley and Sons, pp. x, 269), edited by Henry Pratt Fairchild, aims to present the social, economic, political, geographical, cultural, racial, and other influences in the various countries and social groups which send a large number of immigrants to the United States. There are, besides the introductory chapter, fifteen chapters, each one devoted to a separate group and each written by an authority who is oftentimes a representative of the race described. Some of the authors include such well-known persons as S. K. Ratcliffe, the English journalist and lecturer, Professor Kuno Francke of Harvard, Professor Bruno Roselli of Vassar, Henry Goddard Leach, editor of the *Forum*, and Professor Charles A. Bennett of Yale. Although there is naturally some unevenness in a book of this nature, the different parts are written in a most readable style and with a real insight into the conditions under which the various immigrants have previously lived. Political scientists will find much valuable information in this book.

Selected Articles on Criminal Justice, compiled by James P. Kirby (H. W. Wilson Company, pp. liii, 314), is a convenient addition to the Handbook Series of its publishers. Mr. Kirby, who is chief probation officer of the court of common pleas of Cleveland, Ohio, has made his

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selections carefully from a great mass of printed material. The selections deal chiefly with what may be termed the "sociological" and "reform" aspects of criminal justice. The technically legal problems receive little consideration. But this largely reflects the state of the literature on the subject. The reports of investigations of criminal justice are weakest on the analysis of legal problems. Yet it must be remembered that the problem of administering criminal justice is, after all, a legal one, and must be dealt with as such.

La Suisse Économique et Sociale (Établissements Benziger et Cie S. A., Einsiedeln, Suisse, 2 vols., pp. xi, 854, 1103) is a monumental survey of Swiss economic and social resources and life, published in 1926 by the federal department of public economy in commemoration of the country's completion of its first fifty years under the constitution of 1874. The first volume is devoted to historical, descriptive, and statistical matter; the second is taken up entirely with the texts of laws, ordinances, and decisions—federal and cantonal—relating to the two general subjects of labor and social insurance. On account of its official character and the painstaking manner in which it has been prepared—to say nothing of the intrinsic interest of Swiss economic and social regulation—the work is of first-rate importance for the political scientist as well as for the student of economics and of social phenomena generally.

Napoleon, by Emil Ludwig (Boni and Liveright, pp. 707), and translated by Eden and Cedar Paul, is not military, political, social, nor economic history—it does not pretend to be. The book deals, rather, with Napoleon as a human being and attempts to interpret his motives and his reactions. It is a vivid piece of portraiture, a glowing tribute to the genius of the man of destiny. Public life and private life intermingled meet in the same paragraphs, just as they met and crowded full the days of Napoleon. One theme is stressed throughout: the hero was no Frenchman. Is this due in part to the German nationality of the author? Or is it no more than absolute truth that never, even as emperor, was Napoleon completely identified with the French people? At any rate, he is shown to us as the Corsican that he was born, as a foreigner in France, and in his exile as a homesick man longing for "the lovely skies of Corsica."

A number of research studies have been published recently by the National Industrial Conference Board, including reports on *Minimum Wage Legislation in Massachusetts* (pp. 243), *The Workmen's Compensation Problem in New York State* (pp. 375), *The Fiscal Problem in Dela-*

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ware (pp. 150), *Wages in the United States, 1914 to 1926* (pp. 139), *The Cost of Living in Foreign Countries* (pp. 402), and *Industrial Group Insurance* (pp. 44).

Political Equality: Religious Toleration from Roger Williams to Jefferson, by Perry Belmont (Putnam's, pp. iii, 149), traces the struggle for religious toleration in America from colonial times to the framing of the Constitution, with special emphasis on the influence of the Netherlands on America, and the establishment of religious toleration in Rhode Island. There is also a chapter on "The Political Aspects of Religious Wars." The avowed purpose of the book is to answer those who object to the nomination for, and election to, the presidency of a man who is not a Protestant.

Social Psychology Interpreted, by Jesse W. Sprowls (Williams and Wilkins Company, pp. 268), is a clear, non-technical introduction to the major problems of social psychology. The author is not dogmatic in a field where dogmatism has often dominated, but gives the origin and history of this branch of learning and the pros and cons of the various theories. Like the other books produced by the Williams and Wilkins Company, this volume is most carefully printed and bound.

One of the most recent booklets in the Reference Shelf Series published by the H. W. Wilson Company is *Religious Teaching in the Public Schools* (pp. 170), edited by Lamar T. Beman. Like other volumes in the series, there are affirmative briefs, extracts from articles on both sides of the question, and an extensive bibliography. There are also numerous references to statutes, constitutional provisions, and court decisions.

In *A New Englander in Japan* (Houghton Mifflin Company, pp. x, 374), Professor Evarts B. Greene has told in an interesting fashion the life story of his father, Daniel Crosby Greene, whose forty-four years of missionary and other service in Japan (1869–1913) very nearly coincided with the Meiji period of Japanese history. Using the elder Greene's voluminous correspondence, together with much other source material, the author has been able not only to write an excellent biography but to make a substantial contribution to the history of Japanese civilization during the great era of transformation.

Two books recently published by the Macmillan Company dealing with the civil war period are *The Peacemakers of 1864* (pp. 279), by Edward C. Kirkland, and *The Borderland in the Civil War* (pp. 412),

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by Edward Conrad Smith. The former is of greater interest to students of government. It describes how such persons as Horace Greeley, Francis Preston Blair (father of Montgomery Blair, who was postmaster general in Lincoln's cabinet), General Francis Preston Blair, Jr., and a number of persons of minor importance attempted to bring about negotiations for peace in 1864.

An interesting study on *Contracts in the Legal Courts of Medieval England* (pp. 250), by Robert L. Henry, judge in the mixed courts at Alexandria, Egypt, and formerly professor of law in several American universities, has recently been published by Longmans, Green and Company.

Twentieth Century Europe, by Preston William Slosson (Houghton Mifflin Company, pp. ix, 747), is a balanced, clear, and accurate textbook on European history in the past quarter-century. Constitutional and political developments, as well as international relations, are adequately described, and there is an excellent chapter on the League of Nations.

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RECENT PUBLICATIONS OF POLITICAL INTEREST

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CLARENCE A. BERDAHL

University of Illinois

AMERICAN GOVERNMENT AND PUBLIC LAW

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